

**Executive Summary – Enforcement Matter – Case No. 45057**  
**Texas Department of Criminal Justice**  
**RN102314069**  
**Docket No. 2012-1955-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

TDCJ Scott Unit, located within the Texas Department of Criminal Justice Scott Prison Farm, approximately four miles southeast of the intersection of State Highway 35 and Farm-to-Market Road 521, approximately three miles north of Farm-to-Market Road 2004 and State Highway 332 and approximately 1,400 feet east of the Scott unit, Angleton, Brazoria County

**Type of Operation:**

Correctional institution

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 1, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,550

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$11,550

Name of SEP: Brazoria County - Wastewater Treatment Assistance for Low-Income Homeowners

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 45057**  
**Texas Department of Criminal Justice**  
**RN102314069**  
**Docket No. 2012-1955-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 15, 2012

**Date(s) of NOE(s):** August 31, 2012

***Violation Information***

Failed to comply with permitted effluent limits for five-day carbonaceous biochemical oxygen demand, total residual chlorine, ammonia nitrogen, dissolved oxygen, and total suspended solids [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010829001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The order will require Respondent to implement a Supplemental Environmental Project (“SEP”) (See Attachment A).
2. The Order will require Respondent to, within 90 days, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010829001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Executive Summary – Enforcement Matter – Case No. 45057**  
**Texas Department of Criminal Justice**  
**RN102314069**  
**Docket No. 2012-1955-MWD-E**

**Respondent:** Frank Inmon, Director of Facilities Division, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342  
Jerry McGirty, Chief Financial Officer, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2012-1955-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Texas Department of Criminal Justice
<b>Penalty Amount:</b>	Eleven Thousand Five Hundred Fifty Dollars (\$11,550)
<b>SEP Offset Amount:</b>	Eleven Thousand Five Hundred Fifty Dollars (\$11,550)
<b>Type of SEP:</b>	Contribution to a Third-Party Recipient SEP
<b>Third-Party Recipient:</b>	Brazoria County
<b>Project Name:</b>	<i>Wastewater Treatment Assistance for Low-Income Homeowners</i>
<b>Location of SEP:</b>	Brazoria County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Brazoria County** for the *Wastewater Treatment Assistance for Low-Income Homeowners*. The contribution will be used in accordance with the SEP between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to provide assistance to low income homeowners to repair or replace failing or inadequately designed On-Site Sewage Facilities (“OSSFs”) within the county. Many of the OSSFs currently in operation in Brazoria County are substandard and result in the release of sewage in residential areas, public rights-of-way, and waterways. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

The Third-Party Recipient shall use SEP funds to pay for contractors for direct costs that the homeowners would have been responsible for, such as:

- Design and specifications;
- Engineering costs;
- Contractor expenses related to installing the OSSFs or interconnecting the homes to a central OSSF; and
- Contractor expenses related to demolishing and removing the existing failing

OSSF.

The Third-Party Recipient shall use its own funds to pre-screen residents for eligibility for the program, to issue permits for the system modifications, to provide educational materials and training to participants, and to perform construction and final inspections. The Third-Party Recipient shall not charge homeowners for any portion of the cost of the project paid for by SEP funds.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, which will protect ground, surface, and drinking water sources, and wildlife from contamination from sewage. Important aquatic areas in the Brazoria County area that are likely impacted by the release of sewage include the Brazos River Basin, Christmas Bay, Galveston Bay, Chocolate Bayou, and Bastrop Bayou.

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources;
- Direct contact in areas of public access such as in lawns, streets, or waters used for recreation;
- Shellfish harvested from areas contaminated by raw sewage; or
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

c. **Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Brazoria County SEP** and shall mail the contribution with a copy of the Agreed Order to:

Brazoria County Environmental Health Department  
Attention: Karen Carroll  
111 East Locust, Building A-29, Suite 270  
Angleton, Texas 77515

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	4-Sep-2012	<b>Screening</b>	14-Sep-2012	<b>EPA Due</b>	
	<b>PCW</b>	28-Sep-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Texas Department of Criminal Justice		
<b>Reg. Ent. Ref. No.</b>	RN102314069		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	45057	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2012-1955-MWD-E	<b>Order Type</b>	Findings	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson	
		<b>EC's Team</b>	Enforcement Team 3	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$8,750</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
<b>Compliance History</b>	32.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,800</b>

Notes: Enhancement for two months of self-reported effluent violations, one NOV with dissimilar violations and one order with denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$458	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$11,550</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$11,550</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$11,550</b>
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$11,550</b>
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Screening Date 14-Sep-2012

Docket No. 2012-1955-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 3 (September 2011)

Case ID No. 45057

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102314069

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 32%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two months of self-reported effluent violations, one NOV with dissimilar violations and one order with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 32%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 32%

Screening Date 14-Sep-2012

Docket No. 2012-1955-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 3 (September 2011)

Case ID No. 45057

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102314069

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010829001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on August 15, 2012. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment. Total suspended solids, carbonaceous biochemical oxygen demand (5-day), and dissolved oxygen were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 61

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the month of May 2012.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$458

Violation Final Penalty Total \$1,650

This violation Final Assessed Penalty (adjusted for limits) \$1,650

# Economic Benefit Worksheet

**Respondent** Texas Department of Criminal Justice  
**Case ID No.** 45057  
**Reg. Ent. Reference No.** RN102314069  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-May-2012	30-Apr-2013	0.92	\$458	n/a	\$458

**Notes for DELAYED costs**

The estimated cost to determine the cause of non-compliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date required is the month the first non-compliant excursion was documented. Final date is the expected date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$458

Screening Date 14-Sep-2012

Docket No. 2012-1955-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 3 (September 2011)

Case ID No. 45057

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102314069

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0010829001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on August 15, 2012. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (30.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes: A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels that are protective of human health or the environment.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 Number of violation days 30

Table for frequency selection: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$7,500

One monthly event is recommend for the month of June 2012.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$9,900

This violation Final Assessed Penalty (adjusted for limits) \$9,900

# Economic Benefit Worksheet

**Respondent** Texas Department of Criminal Justice  
**Case ID No.** 45057  
**Reg. Ent. Reference No.** RN102314069  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

See economic benefit for violation no. 1.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$0	<b>TOTAL</b>	\$0
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TEXAS DEPARTMENT OF CRIMINAL JUSTICE  
 TPDES PERMIT NO. WQ0010829001; RN102314069  
 DOCKET NO. 2012-1955-MWD-E; CASE NO. 45057

Parameter	Time Period	
	May 2012	June 2012
CBOD Daily Average Concentration 10 mg/L	c	40
CBOD Single Grab Concentration 35 mg/L	37	51
CBOD Daily Average Loading 38 lbs/day	c	61.8
Total Residual Chlorine Monthly Minimum Concentration 1 mg/L	c	.16
NH <sub>3</sub> Daily Average Concentration 2 mg/L	<10.35	17.94
NH <sub>3</sub> Single Grab Concentration 15 mg/L	20.9	19.35
NH <sub>3</sub> Daily Average Loading 7.5 lbs/day	<16.2	27.56
DO Monthly Minimum Concentration 6 mg/L	4.01	5.3
TSS Daily Average Concentration 15 mg/L	25.58	26.25

mg/L = milligrams per liter  
 TSS = total suspended solids  
 lbs/day = pounds per day

NH<sub>3</sub> = ammonia nitrogen  
 DO = dissolved oxygen  
 c = compliant

CBOD = carbonaceous biochemical oxygen demand (5-day)



The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PENDING** Compliance History Report for CN601550650, RN102314069, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN601550650, Texas Department of Criminal Justice  
**Classification:** SATISFACTORY **Rating:** 0.87  
**Regulated Entity:** RN102314069, TDCJ SCOTT UNIT **Classification:** SATISFACTORY **Rating:** 1.50  
**Complexity Points:** 10 **Repeat Violator:** NO  
**CH Group:** 14 - Other

**Location:** located within the Texas Department of Criminal Justice Scott Prison Farm, approximately four miles southeast of the intersection of State Highway 35 and Farm-to-Market Road 521, approximately three miles north of Farm-to-Market Road 2004 and State Highway 332 and approximately 1,400 feet east of the Scott unit in Angleton, Brazoria County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**WASTEWATER PERMIT** WQ0010829001 **WASTEWATER EPA ID** TX0031658  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0200046 **AIR NEW SOURCE PERMITS REGISTRATION** 44372  
**AIR NEW SOURCE PERMITS REGISTRATION** 44720 **AIR NEW SOURCE PERMITS REGISTRATION** 46039  
**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** BL0750S **AIR NEW SOURCE PERMITS REGISTRATION** 53359  
**AIR NEW SOURCE PERMITS REGISTRATION** 54393 **PETROLEUM STORAGE TANK REGISTRATION REGISTRATION** 48478  
**WASTEWATER AGRICULTURE PERMIT** TXG920521 **WATER LICENSING LICENSE** 0200046  
**WASTEWATER LICENSING LICENSE** WQ0010829001

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** September 19, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 19, 2007 to September 19, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Cheryl Thompson **Phone** (817) 588-5886

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 11/09/2007 ADMINORDER 2007-0514-MWD-E (1660 Order)  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: Effluent Limits PERMIT  
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.  
Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	October 16, 2007	(602857)
Item 2	November 18, 2007	(621225)
Item 3	November 27, 2007	(609692)
Item 4	December 19, 2007	(621226)
Item 5	January 18, 2008	(621227)
Item 6	February 15, 2008	(673311)
Item 7	March 19, 2008	(673312)
Item 8	April 18, 2008	(673313)
Item 9	May 20, 2008	(691467)
Item 10	June 18, 2008	(691468)
Item 11	July 10, 2008	(685807)
Item 12	July 17, 2008	(691469)
Item 13	August 29, 2008	(712404)
Item 14	September 25, 2008	(712405)
Item 15	October 20, 2008	(712406)
Item 16	December 01, 2008	(681087)
Item 17	December 17, 2008	(751759)
Item 18	January 15, 2009	(728665)
Item 19	February 20, 2009	(751756)
Item 20	March 18, 2009	(751757)
Item 21	April 20, 2009	(751758)
Item 22	May 19, 2009	(769527)
Item 23	June 14, 2009	(769528)
Item 24	July 22, 2009	(808245)
Item 25	August 26, 2009	(808246)
Item 26	September 18, 2009	(808247)
Item 27	October 13, 2009	(808248)
Item 28	October 23, 2009	(779188)
Item 29	November 18, 2009	(808249)
Item 30	December 17, 2009	(808250)
Item 31	January 25, 2010	(808251)
Item 32	March 15, 2010	(832190)
Item 33	April 16, 2010	(832191)
Item 34	May 19, 2010	(832192)
Item 35	June 15, 2010	(846676)
Item 36	July 11, 2010	(861216)
Item 37	August 31, 2010	(867332)
Item 38	September 20, 2010	(874369)
Item 39	October 18, 2010	(881952)
Item 40	November 19, 2010	(888432)
Item 41	December 20, 2010	(896740)
Item 42	December 22, 2010	(884463)
Item 43	January 21, 2011	(902723)
Item 44	February 17, 2011	(909528)
Item 45	March 18, 2011	(916771)
Item 46	May 19, 2011	(938489)
Item 47	June 16, 2011	(945854)
Item 48	August 22, 2011	(959758)
Item 49	September 22, 2011	(965795)
Item 50	October 21, 2011	(952325)
Item 51	December 28, 2011	(984772)
Item 52	January 19, 2012	(991060)
Item 53	February 17, 2012	(998426)

Item 54	March 15, 2012	(1003958)
Item 55	April 12, 2012	(1010521)
Item 56	May 21, 2012	(1016904)
Item 57	July 26, 2012	(1024649)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- |   |              |  |           |                 |          |
|---|--------------|--|-----------|-----------------|----------|
| 1 | Date:        | 12/14/2011   | (958433)  | CN601550650     |          |
|   | Self Report? | NO   |           | Classification: | Minor    |
|   | Citation:    | 30 TAC Chapter 317 317.3(c)  |           |                 |          |
|   | Description: | Failed to maintain a standby pump at the offsite lift station.                           |           |                 |          |
|   | Self Report? | NO   |           | Classification: | Moderate |
|   | Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(5)  |           |                 |          |
|   | Description: | Failed to maintain a backup chlorine dispenser.  |           |                 |          |
| 2 | Date:        | 05/31/2012   | (1024648) | CN601550650     |          |
|   | Self Report? | YES  |           | Classification: | Moderate |
|   | Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |           |                 |          |
|   | Description: | Failure to meet the limit for one or more permit parameter                               |           |                 |          |
| 3 | Date:        | 06/30/2012   | (1032025) | CN601550650     |          |
|   | Self Report? | YES  |           | Classification: | Moderate |
|   | Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |           |                 |          |
|   | Description: | Failure to meet the limit for one or more permit parameter                               |           |                 |          |

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE  
RN102314069**

**§           BEFORE THE  
§  
§           TEXAS COMMISSION ON  
§  
§  
§           ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-1955-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Texas Department of Criminal Justice (“Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a correctional institution with an associated wastewater treatment facility located within the Texas Department of Criminal Justice Scott Prison Farm, approximately four miles southeast of the intersection of State

Highway 35 and Farm-to-Market Road 521, approximately three miles north of Farm-to-Market Road 2004 and State Highway 332 and approximately 1,400 feet east of the Scott unit in Angleton, Brazoria County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on August 15, 2012, TCEQ staff documented that the Respondent did not comply with permitted effluent limits, as shown in the table below:

Parameter	Time Period	
	May 2012	June 2012
CBOD Daily Average Concentration 10 mg/L	c	40
CBOD Single Grab Concentration 35 mg/L	37	51
CBOD Daily Average Loading 38 lbs/day	c	61.8
Total Residual Chlorine Monthly Minimum Concentration 1 mg/L	c	.16
NH3 Daily Average Concentration 2 mg/L	<10.35	17.94
NH3 Single Grab Concentration 15 mg/L	20.9	19.35
NH3 Daily Average Loading 7.5 lbs/day	<16.2	27.56
DO Monthly Minimum Concentration 6 mg/L	4.01	5.3
TSS Daily Average Concentration 15 mg/L	25.58	26.25

mg/L = milligrams per liter                      NH<sub>3</sub> = ammonia nitrogen  
TSS = total suspended solids                    DO = dissolved oxygen  
lbs/day = pounds per day                        c = compliant  
CBOD = carbonaceous biochemical oxygen demand (5-day)

4. The Respondent received notice of the violations on September 5, 2012.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010829001, Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 6, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Eleven Thousand Five Hundred Fifty Dollars (\$11,550) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Eleven Thousand Five Hundred Fifty Dollars (\$11,550) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

## III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Eleven Thousand Five Hundred Fifty Dollars (\$11,550) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Department of Criminal Justice, Docket No. 2012-1955-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Conclusions of Law Section II, Paragraph 4 above, Eleven Thousand Five Hundred Fifty Dollars (\$11,550) of the assessed administrative penalty shall be offset with the condition that Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010829001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Ram Davis Jr*

\_\_\_\_\_  
For the Executive Director

3/29/13

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Texas Department of Criminal Justice. I am authorized to agree to the attached Agreed Order on behalf of Texas Department of Criminal Justice, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Texas Department of Criminal Justice waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Jerry McGinty*  
\_\_\_\_\_  
Signature

1/18/13  
\_\_\_\_\_  
Date

*Jerry McGinty*  
\_\_\_\_\_  
Name (Printed or typed)

Chief Financial Officer  
\_\_\_\_\_  
Title

Authorized Representative of  
Texas Department of Criminal Justice

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.



**Attachment A**  
**Docket Number: 2012-1955-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Texas Department of Criminal Justice
<b>Penalty Amount:</b>	Eleven Thousand Five Hundred Fifty Dollars (\$11,550)
<b>SEP Offset Amount:</b>	Eleven Thousand Five Hundred Fifty Dollars (\$11,550)
<b>Type of SEP:</b>	Contribution to a Third-Party Recipient SEP
<b>Third-Party Recipient:</b>	Brazoria County
<b>Project Name:</b>	<i>Wastewater Treatment Assistance for Low-Income Homeowners</i>
<b>Location of SEP:</b>	Brazoria County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Brazoria County** for the *Wastewater Treatment Assistance for Low-Income Homeowners*. The contribution will be used in accordance with the SEP between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to provide assistance to low income homeowners to repair or replace failing or inadequately designed On-Site Sewage Facilities (“OSSFs”) within the county. Many of the OSSFs currently in operation in Brazoria County are substandard and result in the release of sewage in residential areas, public rights-of-way, and waterways. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

The Third-Party Recipient shall use SEP funds to pay for contractors for direct costs that the homeowners would have been responsible for, such as:

- Design and specifications;
- Engineering costs;
- Contractor expenses related to installing the OSSFs or interconnecting the homes to a central OSSF; and
- Contractor expenses related to demolishing and removing the existing failing

OSSF.

The Third-Party Recipient shall use its own funds to pre-screen residents for eligibility for the program, to issue permits for the system modifications, to provide educational materials and training to participants, and to perform construction and final inspections. The Third-Party Recipient shall not charge homeowners for any portion of the cost of the project paid for by SEP funds.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, which will protect ground, surface, and drinking water sources, and wildlife from contamination from sewage. Important aquatic areas in the Brazoria County area that are likely impacted by the release of sewage include the Brazos River Basin, Christmas Bay, Galveston Bay, Chocolate Bayou, and Bastrop Bayou.

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources;
- Direct contact in areas of public access such as in lawns, streets, or waters used for recreation;
- Shellfish harvested from areas contaminated by raw sewage; or
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Brazoria County SEP** and shall mail the contribution with a copy of the Agreed Order to:

Brazoria County Environmental Health Department  
Attention: Karen Carroll  
111 East Locust, Building A-29, Suite 270  
Angleton, Texas 77515

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.