

Executive Summary – Enforcement Matter – Case No. 46956
City of Pearland
RN101610160
Docket No. 2013-1040-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Pearland WWTF, located on Dixie Farm Road, approximately 2.8 miles southwest of the IH 45 and Dixie Farm Road interchange, Brazoria and Harris Counties

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 27, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,625

Amount Deferred for Expedited Settlement: \$2,925

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 (A): \$10,000

Name of SEP: The Trust for Public Land

SEP Conditional Offset (B): \$1,700

Name of SEP: Brazoria County

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

**Executive Summary – Enforcement Matter – Case No. 46956
City of Pearland
RN101610160
Docket No. 2013-1040-MWD-E**

Date(s) of Investigation: May 10, 2013

Date(s) of NOE(s): May 17, 2013

Violation Information

Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010134010 Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondent to implement and complete two Supplemental Environmental Projects ("SEPs"). (See SEP Attachments A and B)
2. The Order will also require Respondent to, within 90 days, submit written certification demonstrating at least three consecutive months of compliance with all permitted effluent 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: Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

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

Respondent: The Honorable Tom Reid, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, Texas 77581

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-1040-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Pearland
Penalty Amount:	Eleven Thousand Seven Hundred Dollars (\$11,700)
SEP Offset Amount:	Ten Thousand Dollars (\$10,000)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	The Trust for Public Land
Project Name:	<i>The Trust for Public Land's Galveston Bay Natural Area Acquisition and Conservation Program</i>
Location of SEP:	Brazoria, Chambers, Galveston, and Harris Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of 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 Administrator named above. The contribution will be to **The Trust for Public Land (TPL)** for *The Trust for Public Land's Galveston Bay Natural Area Acquisition and Conservation Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used for property acquisitions that will preserve open space in the Galveston Bay watershed, thereby contributing to improved water quality, conserving wetlands and other special habitats, and increasing public access to the Bay, its tributaries, and their habitats. TPL's professional staff (a) works with local interests to identify acquisition projects, (b) purchases the land to remove it from the market, and (c) transfers the land to a public agency or nonprofit organization, which will be the ultimate fee title holder and permanent steward of the property. TPL will ensure that each property is encumbered with a conservation easement that will preserve the property into perpetuity. SEP Offset Amount will be used for the purchase of land. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this

contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (ED), be applied to another pre-approved SEP.

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

The preservation of open space in the Galveston Bay watershed provides substantial environmental, economic, and community benefits for the region. Open space contributes free ecological services, services that society must pay for otherwise. A key environmental benefit for acquisitions along Galveston Bay system waterways will be maintaining/restoring stream buffers that will help filter contaminants before they reach the water, and providing wildlife habitat. Forested buffers provide the additional benefit of improving air quality through the removal of carbon dioxide, ozone, and sulfur dioxide. Acquiring habitat along the bay front or along streams would also provide a buffer for coastal wetlands, preventing their further degradation, and ensuring greater protection of uplands from storm surge and other erosional forces.

The habitats of the Galveston Bay system - barrier islands, oak and riparian woodlands, coastal prairies, cypress swamps, seagrass meadows, saltgrass marshes, and oyster reefs host an astounding cornucopia of wildlife, including 95 percent of the recreationally and commercially important fish species of the Bay and Gulf systems, and 75 percent of North America's bird species. Yet, these habitats have suffered substantial losses and changes: increases in open water, losses of seagrass beds, losses of coastal prairie uplands, conversion of freshwater wetlands to brackish wetlands or agricultural lands, and degradation of estuarine marshes.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Administrator. Respondent shall make the check payable to **The Trust for Public Land SEP** and shall mail the contribution with a copy of the Agreed Order to:

The Trust for Public Land
Attention: Scott Parker, Executive Director
Texas State Office
816 Congress Avenue, Suite 1680
Austin, Texas 78701

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 Administrator. 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 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.

Attachment B
Docket Number: 2013-1040-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Pearland
Penalty Amount:	Eleven Thousand Seven Hundred Dollars (\$11,700)
SEP Offset Amount:	One Thousand Seven Hundred Dollars (\$1,700)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Brazoria County
Project Name:	<i>On-site Wastewater Facilities Assistance</i>
Location of SEP:	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 B.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Brazoria County** for the *On-site Wastewater Facilities Assistance*. The contribution will be used in accordance with the SEP between the Third-Party Administrator 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 Administrator 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 Administrator 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 Administrator 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 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 Administrator 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 Administrator. 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 Administrator. 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 B, 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 B 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

DATES	Assigned	13-May-2013	Screening	23-May-2013	EPA Due	5-Sep-2013
	PCW	24-May-2013				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Pearland		
Reg. Ent. Ref. No.	RN101610160		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	46956	No. of Violations	1
Docket No.	2013-1040-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	30.0% Enhancement	Subtotals 2, 3, & 7	\$3,375
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Notes: Enhancement for six months of self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$4,178	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$50,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,625
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$14,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,625
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,925
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$11,700
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Screening Date 23-May-2013

Docket No. 2013-1040-MWD-E

PCW

Respondent City of Pearland

Policy Revision 3 (September 2011)

Case ID No. 46956

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101610160

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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) 30%

>> 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 six months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 23-May-2013

Docket No. 2013-1040-MWD-E

PCW

Respondent City of Pearland

Policy Revision 3 (September 2011)

Case ID No. 46956

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101610160

Media [Statute] Water Quality

Enf. Coordinator Harvey Willson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010134010 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on May 10, 2013 (see attached table).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total flow was 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.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 Number of violation days 245

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

Violation Base Penalty \$11,250

Three quarterly events are recommended.

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 \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,178

Violation Final Penalty Total \$14,625

This violation Final Assessed Penalty (adjusted for limits) \$14,625

Economic Benefit Worksheet

Respondent City of Pearland
Case ID No. 46956
Reg. Ent. Reference No. RN101610160
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
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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)	\$50,000	31-May-2012	31-Jan-2014	1.67	\$4,178	n/a	\$4,178

Notes for DELAYED costs

The estimated cost of repairing the pumps, installing new filters, new clarifiers, new rake arms, and return to compliance with permitted limits. Date Required is the date the first violation occurred. Final Date is the estimated 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

\$50,000

TOTAL

\$4,178

City of Pearland
Docket No. 2013-1040-MWD-E
TPDES Permit No. WQ0010134010
Violation Table

Date	Carbonaceous Biochemical Oxygen Demand, Daily Average Concentration 5 mg/L	Carbonaceous Biochemical Oxygen Demand, Daily Max Concentration 20 mg/L	Carbonaceous Biochemical Oxygen Demand Daily Average Loading 104 lb/day	Flow 2 Hour peak 6944 gal/min
May 2012	5.47	26.1	C	C
July 2012	C	C	C	7778
August 2012	5.55	C	C	C
September 2012	5.4	C	C	C
November 2012	6.36	C	C	C
January 2013	5.5	C	111.17	C
mg/L = milligrams per liter lb/day = pounds per day gal/min = gallons per minute C = compliant Max= maximum				

The TCEQ is committed to accessibility.

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



Compliance History Report

PUBLISHED Compliance History Report for CN600595052, RN101610160, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600595052, City of Pearland **Classification:** SATISFACTORY **Rating:** 1.48
Regulated Entity: RN101610160, PEARLAND TRACT **Classification:** SATISFACTORY **Rating:** 1.23
Complexity Points: 8 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities
Location: LOCATED ON DIXIE FARM RD, APPROX 2.8 MI SW OF THE IH 45 AND DIXIE FARM RD INTERCHANGE IN BRAZORIA AND HARRIS COUNTIES, TX
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER PERMIT WQ0010134010

WASTEWATER EPA ID TX0032743

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

Date Compliance History Report Prepared: May 21, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 21, 2008 to May 21, 2013

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

Name: Harvey Wilson

Phone: (512) 239-0321

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:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

Item 1	June 30, 2008	(769605)
Item 2	July 21, 2008	(769610)
Item 3	September 02, 2008	(769615)
Item 4	November 24, 2008	(769629)
Item 5	January 26, 2009	(769637)
Item 6	February 19, 2009	(769584)
Item 7	March 11, 2009	(769588)
Item 8	April 20, 2009	(769595)

Item 9	June 11, 2009	(769606)
Item 10	August 26, 2009	(1062900)
Item 11	September 17, 2009	(1062904)
Item 12	December 15, 2009	(808455)
Item 13	April 19, 2010	(1062897)
Item 14	May 18, 2010	(1062891)
Item 15	June 09, 2010	(1062894)
Item 16	November 17, 2010	(1062911)
Item 17	March 15, 2011	(1062886)
Item 18	April 20, 2011	(1062889)
Item 19	May 17, 2011	(1062892)
Item 20	June 20, 2011	(1062895)
Item 21	July 19, 2011	(1062898)
Item 22	August 18, 2011	(1062902)
Item 23	September 20, 2011	(1062906)
Item 24	October 19, 2011	(1062909)
Item 25	November 15, 2011	(1062912)
Item 26	December 19, 2011	(1062915)
Item 27	January 19, 2012	(1062918)
Item 28	February 20, 2012	(1062884)
Item 29	March 20, 2012	(1062887)
Item 30	April 19, 2012	(1062890)
Item 31	May 17, 2012	(1062893)
Item 32	July 19, 2012	(1062899)
Item 33	November 14, 2012	(1062913)
Item 34	January 24, 2013	(1080007)
Item 35	March 18, 2013	(1089796)

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: 05/31/2012 (1062896)	CN600595052	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 07/31/2012 (1062903)	CN600595052	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 08/31/2012 (1062907)	CN600595052	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 09/30/2012 (1062910)	CN600595052	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
5	Date: 11/30/2012 (1062916)	CN600595052	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
6	Date: 01/31/2013 (1080006)	CN600595052	
	Self Report? YES	Classification: Moderate	

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
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

Published Compliance History Report for CN600595052, RN101610160, Rating Year 2012 which includes Compliance History (CH) components from May 21, 2008, through May 21, 2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PEARLAND
RN101610160**

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

**AGREED ORDER
DOCKET NO. 2013-1040-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Pearland ("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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located on Dixie Farm Road, approximately 2.8 miles southwest of Interstate Highway 45 and Dixie Farm Road interchange in Brazoria and Harris Counties, 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. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 22, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fourteen Thousand Six Hundred Twenty-Five Dollars (\$14,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Nine Hundred Twenty-Five Dollars (\$2,925) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived

upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eleven Thousand Seven Hundred Dollars (\$11,700) of the administrative penalty shall be conditionally offset by the Respondent's completion of two Supplemental Environmental Projects ("SEPs").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010134010 Effluent Limitations and Monitoring Requirements No. 1, as shown in the table below:

DATE	CBOD Daily Average Concentration 5 mg/L	CBOD Daily Maximum Concentration 20 mg/L	CBOD Daily Average Loading 104 lb/day	Flow 2 Hour Peak 6944 gal/min
May 2012	5.47	26.1	C	C
July 2012	C	C	C	7778
August 2012	5.55	C	C	C
September 2012	5.4	C	C	C
November 2012	6.36	C	C	C
January 2013	5.5	C	111.17	C
mg/L = milligrams per liter lb/day = pounds per day gal/min = gallons per minute C = compliant CBOD = carbonaceous biochemical oxygen demand				

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Pearland, Docket No. 2013-1040-MWD-E" to:

Financial Administration Division, Revenue Operations 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 two SEPs in accordance with TEX. WATER CODE § 7.067. As set forth in Section I above, Eleven Thousand Seven Hundred Dollars (\$11,700) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEPs defined in Attachments A and B, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharge 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 written certification of compliance with the permitted effluent limitations of TDES Permit No. WQ0010134010, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most recent self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"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. 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.
8. 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

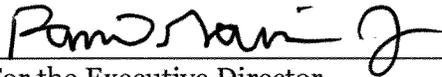
authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director 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.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

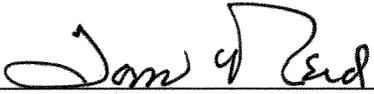
11/18/13
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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.


Signature

10-23-2013
Date

Tom Reid
Name (Printed or typed)
Authorized Representative of
City of Pearland

Mayor, City of Pearland
Title

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

Attachment A
Docket Number: 2013-1040-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Pearland
Penalty Amount:	Eleven Thousand Seven Hundred Dollars (\$11,700)
SEP Offset Amount:	Ten Thousand Dollars (\$10,000)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	The Trust for Public Land
Project Name:	<i>The Trust for Public Land's Galveston Bay Natural Area Acquisition and Conservation Program</i>
Location of SEP:	Brazoria, Chambers, Galveston, and Harris Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of 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 Administrator named above. The contribution will be to **The Trust for Public Land** (TPL) for *The Trust for Public Land's Galveston Bay Natural Area Acquisition and Conservation Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used for property acquisitions that will preserve open space in the Galveston Bay watershed, thereby contributing to improved water quality, conserving wetlands and other special habitats, and increasing public access to the Bay, its tributaries, and their habitats. TPL's professional staff (a) works with local interests to identify acquisition projects, (b) purchases the land to remove it from the market, and (c) transfers the land to a public agency or nonprofit organization, which will be the ultimate fee title holder and permanent steward of the property. TPL will ensure that each property is encumbered with a conservation easement that will preserve the property into perpetuity. SEP Offset Amount will be used for the purchase of land. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this

contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (ED), be applied to another pre-approved SEP.

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

The preservation of open space in the Galveston Bay watershed provides substantial environmental, economic, and community benefits for the region. Open space contributes free ecological services, services that society must pay for otherwise. A key environmental benefit for acquisitions along Galveston Bay system waterways will be maintaining/restoring stream buffers that will help filter contaminants before they reach the water, and providing wildlife habitat. Forested buffers provide the additional benefit of improving air quality through the removal of carbon dioxide, ozone, and sulfur dioxide. Acquiring habitat along the bay front or along streams would also provide a buffer for coastal wetlands, preventing their further degradation, and ensuring greater protection of uplands from storm surge and other erosional forces.

The habitats of the Galveston Bay system - barrier islands, oak and riparian woodlands, coastal prairies, cypress swamps, seagrass meadows, saltgrass marshes, and oyster reefs host an astounding cornucopia of wildlife, including 95 percent of the recreationally and commercially important fish species of the Bay and Gulf systems, and 75 percent of North America's bird species. Yet, these habitats have suffered substantial losses and changes: increases in open water, losses of seagrass beds, losses of coastal prairie uplands, conversion of freshwater wetlands to brackish wetlands or agricultural lands, and degradation of estuarine marshes.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator 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 Administrator. Respondent shall make the check payable to **The Trust for Public Land SEP** and shall mail the contribution with a copy of the Agreed Order to:

The Trust for Public Land
Attention: Scott Parker, Executive Director
Texas State Office
816 Congress Avenue, Suite 1680
Austin, Texas 78701

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 Administrator. 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 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.

Attachment B
Docket Number: 2013-1040-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Pearland
Penalty Amount:	Eleven Thousand Seven Hundred Dollars (\$11,700)
SEP Offset Amount:	One Thousand Seven Hundred Dollars (\$1,700)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Brazoria County
Project Name:	<i>On-site Wastewater Facilities Assistance</i>
Location of SEP:	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 B.

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to **Brazoria County** for the *On-site Wastewater Facilities Assistance*. The contribution will be used in accordance with the SEP between the Third-Party Administrator 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 Administrator 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 Administrator 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 Administrator 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 Administrator 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 Administrator. 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 Administrator. 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 B, 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 B 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.