

**Executive Summary – Enforcement Matter – Case No. 48120**

**City of Springtown**

**RN101392397**

**Docket No. 2014-0076-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM – PWS/ WQ

**Small Business:**

No

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

City of Springtown PWS, located at the western end of Peden Road, west of Farm-to-Market Road 730, Parker County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 23, 2014

**Comments Received:** Yes, one comment received from Karen York on June 17, 2014.

***Penalty Information***

**Total Penalty Assessed:** \$5,900

**Amount Deferred for Expedited Settlement:** \$1,180

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

**Total Paid to General Revenue:** \$4,720

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

Payment Plan: N/A

**SEP Conditional Offset:** \$4,720

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

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**City of Springtown**  
**RN101392397**  
**Docket No. 2014-0076-MLM-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** September 19, 2013

**Date(s) of NOE(s):** December 13, 2013

***Violation Information***

1. Failed to obtain authorization from the Commission prior to any discharge of wastewater. Specifically, the Facility was discharging backwash water from the filters and decant water from the sedimentation lagoons to the nearby unnamed creek without authorization [30 TEX. ADMIN. CODE §§ 305.42(a) and 290.42(i), and TEX. WATER CODE § 26.121(a)].
2. Failed to provide a production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the surface water treatment plant produces 700 gpm and the wells produce 59 gpm. With 1,414 connections, the minimum required production capacity is 848 gpm which is a 10.5% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and (b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
3. Failed to maintain all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition. Specifically, the ground storage tank ("GST") at the 5th Street pump station was leaking [30 TEX. ADMIN. CODE § 290.46(m)(4), as documented during an investigation conducted on September 19, 2013].
4. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, both lagoons had large sludge accumulations, were overgrown with cattails and other vegetation, and the concrete pond was almost full of sludge and had vegetative growth [30 TEX. ADMIN. CODE § 290.46(m)].

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***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
  - a. Immediately, cease the unauthorized discharge of backwash water from the filters and decant water from the sedimentation lagoons until such time that authorization is obtained;
  - b. Within 15 days, submit written certification demonstrating compliance with Ordering Provision a.;
  - c. Within 30 days, submit an administratively complete permit application for the discharge of backwash water from the filters and decant water from the sedimentation lagoons;
  - d. Within 60 days:
    - i. Submit written certification demonstrating compliance with Ordering Provision c.;
    - ii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility's systems and equipment, including but not limited to removing and properly disposing of the excess sludge and vegetation from the lagoons and the concrete pond; and
    - iii. Begin maintaining all distribution system lines, storage and pressure maintenance facilities, water treatment units, and related appurtenances in a watertight condition, including but not limited to repairing or replacing the GST at the 5th Street pump station.
  - e. Within 75 days, submit written certification, demonstrating compliance with Ordering Provisions d.ii. and d.iii.;
  - f. Within 180 days:
    - i. Provide a minimum production capacity of 0.6 gpm per connection; and
    - ii. Obtain approval of the permit application for the discharge of backwash water from the filters and decant water from the sedimentation lagoons.
  - g. Within 195 days, submit written certification demonstrating compliance with Ordering Provision f.

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**Docket No. 2014-0076-MLM-E**

***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:** Michaelle Garza, Enforcement Division,  
Enforcement Team 2, MC R 13, (210) 403-4076; 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 Douglas Hughes, Mayor, City of Springtown, P.O. Box  
444, Springtown, Texas 76082  
**Respondent's Attorney:** N/A

# TCEQ Interoffice Memorandum

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**To:** Bryan W. Shaw, Ph.D., P.E., Chairman  
Toby Baker, Commissioner  
Zak Covar, Commissioner  
Anne Idsal, General Counsel

**Thru:** *BKS* Bryan Sinclair, Director, Enforcement Division

**From:** *MCC* Melissa Cordell, Manager, Enforcement Division

**Date:** November 5, 2014

**Subject:** Response to Comment Received Concerning Proposed Agreed Enforcement Order  
City of Springtown in Parker County  
RN101392397; Public Water Supply ID No. 1840003  
Enforcement Case No. 48120; Docket No. 2014-0076-MLM-E

In response to a publication in the Texas Register on May 23, 2014, one comment has been received regarding a proposed agreed enforcement order requiring certain actions of the City of Springtown. The comment was received within the thirty-day public comment period.

The proposed order includes four violations documented in investigations conducted on September 19, 2013, October 4, 2013, and November 7, 2013. Violations included the failure to provide a production capacity of 0.6 gallons per minute (gpm) per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and (b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the surface water treatment plant produces 700 gpm and the wells produce 59 gpm. With 1,414 connections, the minimum required production capacity is 848 gpm which is a 10.5% deficiency; failure to maintain all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4). Specifically, the ground storage tank at the 5th Street pump station was leaking; failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, both lagoons had large sludge accumulations, were overgrown with cattails and other vegetation, and the concrete pond was almost full of sludge and had vegetative growth; and failure to obtain authorization from the Commission prior to any discharge of wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.42(a) and 290.42(i), and TEX. WATER CODE § 26.121(a). Specifically, the Facility was discharging backwash water from the filters and decant water from the sedimentation lagoons to the nearby unnamed creek without authorization. TCEQ staff and the City of Springtown agreed on the terms of the proposed order on April 21, 2014. The order would assess a Five Thousand Nine Hundred Dollar (\$5,900) penalty, of which One Thousand One Hundred Eighty Dollars is deferred in accordance with the expedited

order process. Additionally, Four Thousand Seven Hundred Twenty Dollars (\$4,720) would be conditionally offset by the City's completion of a Supplemental Environmental Project (SEP). The order will require that the discharge immediately cease until authorization is obtained, submission and approval of a permit application, repair of the ground storage tank, meeting the minimum production capacity, and removing vegetation and sludge from the lagoons. According to an April 2, 2014 complaint investigation conducted at the City of Springtown public water supply, the sludge and vegetation has been removed from the lagoons and the discharge was not observed.

A copy of the comment and the staff response to the comment are attached for your consideration. In summary, the commenter is expressing a concern that the unauthorized discharge has impacted the commenter's property and the City should be required to provide monetary compensation for the property to be cleaned. Staff's position, as reflected in the response, is that TCEQ does not have authority to bring an action for monetary damages under these circumstances. Accordingly, the Enforcement Division recommends that you adopt this proposed order.

### **Attachments**

cc: General Counsel, MC 101, Building F  
Special Counsel, MC 109, Building F  
Manager, Water Section, Dallas/Fort Worth Regional Office  
Michaelle Garza, Coordinator, Enforcement Division  
Central Records, MC 213, Building E, 1st Floor,  
PWS\_1840003\_CO\_20141006\_Response to Comments Received  
Enforcement Division Reader File

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 13, 2014

Ms. Karen York  
901 North Cardinal Road  
Springtown, Texas 76020

Re: Comment Received, Proposed Agreed Enforcement Order  
City of Springtown; RN101392397; Public Water Supply ID No. 1840003  
Docket No. 2014-0076-MLM-E; Enforcement Case No. 48120

Dear Ms. York:

On June 11, 2014, we received your comment concerning the proposed agreed enforcement order for the City of Springtown public water supply in Parker County, Texas. I have forwarded your comment to our Dallas/Fort Worth Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality (TCEQ) staff and the City of Springtown agreed on the terms of the proposed order on April 21, 2014. Accordingly, the City of Springtown was assessed an administrative penalty of Five Thousand Nine Hundred Dollars (\$5,900), of which One Thousand One Hundred Eighty Dollars (\$1,180) has been deferred in accordance with our expedited order process. Four Thousand Seven Hundred Twenty Dollars (\$4,720) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project (SEP).

The order will require that the discharge immediately cease until authorization is obtained, submission and approval of a permit application, repair of the ground storage tank, meeting the minimum production capacity, and removing vegetation and sludge from the lagoons. According to the complaint investigation conducted at the City of Springtown public water supply on April 2, 2014, the sludge and vegetation had been removed from the lagoons and the discharge was not observed.

Ms. Karen York  
Page 2  
October 13, 2014

Your comment requested assistance with obtaining get monetary compensation from the City to get your pond cleaned. You also commented that the prior property owner's experiences with flooding and a discharge should have been discussed prior to purchase of your property. The TCEQ does not have authority to bring an action for monetary damages under these circumstances. Independent of the TCEQ enforcement process, the Texas Water Code allows you to pursue available common law remedies to abate a condition or nuisance and recover damages or otherwise redress injury to your property. Please see TEXAS WATER CODE §§ 7.004 and 7.005.

Your comment discussed the Dallas Fort Worth Regional Office's documented unauthorized discharge of water treatment waste without authorization during October, 2013 and again in November, 2013. This allegation is included in the proposed order and a technical requirement is included to cease all unauthorized discharges. It is TCEQ's understanding that the discharge has stopped at this time.

Your comment discussed TCEQ allowing the City six months to stop the discharge so that plumbing can be redone at the plant. The order includes a requirement to cease unauthorized discharges immediately upon the effective date of the order.

Your comment discussed the money that the City saved by not properly disposing of silt from their ponds. An economic benefit was reflected in the public water supply penalty calculation worksheet, violation no. 3, in accordance with the penalty policy.

Your comments discussed the investigation report and subsequent enforcement action, including the requirement for the City to stop the discharge, but the City not making any attempts to clean the years of water waste accumulated in the pond. The City of Springtown was assessed a penalty of Five Thousand Nine Hundred Dollars (\$5,900) for the unauthorized discharge violation and for three other violations related to the public water supply. The compliance actions do require the City to cease all unauthorized discharges.

We appreciate your input into the enforcement action currently pending against the City of Springtown. The proposed agreed order will be considered at the Commission's Agenda. Your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it.

Ms. Karen York  
Page 3  
October 13, 2014

Ms. Michaelle Garza is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Garza at (210) 403-4076. For complaints related to City of Springtown's current operating conditions or procedures, you should continue to contact our Dallas/Fort Worth Regional Office at (817) 588-5800.

Sincerely,

A handwritten signature in cursive script that reads "Bryan Sinclair".

Bryan Sinclair, Director  
Enforcement Division  
Texas Commission on Environmental Quality

BS/mg



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Questions or Comments:  
 pep@tceq.texas.gov

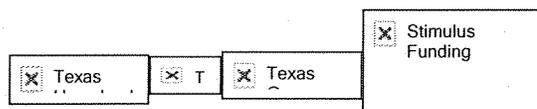
## TCEQ Commissioners' Integrated Database - Comment Detail

[Back to Report Result 1 - 1](#)

I need your assistance in getting my pond cleaned up. I live in a small town, 20 minutes northwest of Fort Worth, in Reno, which is located in Parker County. I bought a house with 31 acres and a 3-acre, spring-fed pond in July 2011. The Springtown Water Treatment Plant that processes drinking water is located in close proximity to my property. I discovered I had a problem in 2013, when something horrible floated into my pond from the Springtown Water Treatment plant. It looked like dark green almost black, floating, "elephant hide." Digging deeper, I learned that for years, the Springtown Water Treatment Plant had been backwashing their filters (removing sediment and vegetation) from the water they pump in from Eagle Mountain Lake and illegally dumping this waste into a creek that feeds into the pond on my property. The previous owner of my property (Wendal Hoover) did not disclose the problem to me before I bought the property. Two weeks ago, I contacted Mr. Hoover by phone, and he told me that for 30 years, he would constantly go to Parker County to have the water stopped, because it was flooding the hay fields in back of the property. Springtown would stop temporarily - then start again. It was a battle that he couldn't win. There was so much water, that once his house was completely flooded with 18 inches of water. So he had to have the pond dredged to make it deeper, and he spent thousands of dollars enlarging the dam 3 times to prevent future flooding. Last October 2013, I also contacted the Parker County Commissioner, George Conley, concerning the water from the Springtown Water Treatment Plant, and he told me that Springtown wasn't doing anything illegal; they had been dumping their water for into my pond for over 30 years! In desperation, I contacted the Texas Commission on Environmental Quality (TCEQ). They found that the Water Treatment Plant has been knowingly operating without a water discharge permit. They found that the Water Treatment Plant has been dumping water/sediment/vegetation from a large pipe directly into a creek that feeds into the pond on my property for (at least 12 years on record) without a discharge permit. TCEQ told me that Springtown had disconnected the drainage pipe that fed water to my pond, and that the water would stop. However, in November 2013, the water began to overflow again over my pond's dam into my hayfields. I called TCEQ again, and they gave Springtown a surprise visit - only to find that Springtown had reconnected the pipe again, and was releasing water illegally again into my pond. TCEQ gave Springtown 6 months to stop the complete discharge of water and debris, because it would require re-plumbing the facility. TCEQ also told me that Springtown would be financially responsible for cleaning up my pond, but that I would have to deal with the city directly. I repeatedly called the Springtown Water Treatment Plant, but none of my phone calls were returned. I was forced to hire an environmental attorney in Houston who explained that I could not compete alone against small town politics, and he promised to help me receive a monetary award from the Springtown Water Treatment plant to clean up their mess in my pond. He was aware that TCEQ was already involved, but he stated that he would accept my case because Springtown was violating the Federal Clean Water Act. He also told me that Springtown was violating my state Texas Bills of Rights that, basically says that, "No person's property can be damaged for public use without adequate compensation being made." Sec. 17. TAKING, DAMAGING, OR DESTROYING PROPERTY FOR PUBLIC USE; SPECIAL PRIVILEGES AND IMMUNITIES; CONTROL OF PRIVILEGES AND FRANCHISES. (a) No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is for: (1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by: (A) the State, a political subdivision of the State, or the public at large; or (B) an entity granted the power of eminent

domain under law; or (2) the elimination of urban blight on a particular parcel of property. (b) In this section, "public use" does not include the taking of property under Subsection (a) of this section for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenues. (c) On or after January 1, 2010, the legislature may enact a general, local, or special law granting the power of eminent domain to an entity only on a two-thirds vote of all the members elected to each house. (d) When a person's property is taken under Subsection (a) of this section, except for the use of the State, compensation as described by Subsection (a) shall be first made, or secured by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the Legislature, or created under its authority, shall be subject to the control thereof. (Amended Nov. 3, 2009.) "No public company can use private property for public use without monetary compensation. The Treatment Plant's irresponsibility has resulted in silt deposits of up to 4 feet in depth in my pond, and there were deeply rooted Hydrilla mounds, which has been validated by two professional pond cleaning companies. American Underwater Services, a pond clean up company, provided a bid of \$456,682 to properly remove the 4 feet of silt and vegetation from my pond. They stated what was occurring in my pond was not natural - it was a result of industrial assault, and that it would take almost 100 days to fully remove the waste. They also stated that Springtown's neglect in maintaining their lagoons had literally saved them thousands of dollars throughout the years, because Springtown didn't have to spend any money. Their savings from not spending money was a huge economic loss for me due to their deliberate dumping of their waste water onto my property. TCEQ filed a 160 page report, and fined Springtown a total of \$5,900 for failure to obtain a permit to discharge water. TCEQ forced Springtown to stop the water flow into my pond, but Springtown has not made any attempts to clean up the inherited years of water waste accumulated in my pond. In addition, my attorney basically dropped my case, because he said that I could not receive monetary award for my pond cleanup due to violating a Federal law, since TCEQ had imposed a fine, a lawsuit was not viable. He also said a State lawsuit would be more expensive to litigate than the costs to clean up my pond, and I don't have the money to pursue a State level case. I hired this attorney specifically to help me get my pond cleaned up. His last e-mail he told me to contact Springtown myself. (How convenient that Springtown continues to not return my calls.) So now, I'm left with a huge mess due to their neglect. The excessive volume of silt has covered the spring that feeds water into my pond, and now my pond is going dry. The water has receded at least 15 feet from the original boundaries, and I do not have the money (\$456,682) to have the silt professionally removed, so that the spring water will once again fill my pond. This mess is ugly, the muck smells like rotten eggs, floating algae and Hydrilla cover it, and Springtown's neglect has ruined the overall looks and enjoyment of my entire property. It has also significantly reduced the value of my property; and no one would want to buy it due to the pond. I'm left with a problem when Springtown deliberately and systematically dumped waste on my property for years. They were very aware they were breaking the law and discharging without a permit, because they would periodically stop when the previous owner contacted Parker County. Then, they would start illegally discharging again. They even continued discharging after TCEQ notified them to stop! Can you help me receive monetary compensation from Springtown to help me get my pond cleaned and restore the beauty to my property due to their deliberate actions? I have spent my entire life's savings to buy this property, and I do not have the money to pay for their damages. When you damage someone else's property, you are financially responsible for the damages. Why is this situation any different? By the way, this is not the first occurrence where Springtown has encountered recently with TCEQ: <http://www.star-telegram.com/2013/08/20/5095471/property-owners-vent-concerns.html> Respectfully, Karen York

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Last Modified Thu, 24 Sep 2009

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**Attachment A**  
**Docket Number: 2014-0076-MLM-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Springtown</b>
<b>Penalty Amount:</b>	<b>Four Thousand Seven Hundred Twenty Dollars (\$4,720)</b>
<b>SEP Offset Amount:</b>	<b>Four Thousand Seven Hundred Twenty Dollars (\$4,720)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Household Hazardous Waste Collection</i></b>
<b>Location of SEP:</b>	<b>Parker County: Brazos River Basin, Trinity Aquifer</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the 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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Household Hazardous Waste (“HHW”) Collection* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities (collectively known as “Partner Entities”) to conduct events for residents to bring in HHW such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal (the “Project”). Where possible, the Project may also offer electronics collection, disposal, and recycling. The Third-Party Administrator shall work with Partner Entities to determine exactly which materials will be accepted and how they will be disposed of or recycled.

The Third-Party Administrator shall ensure that individuals qualified to make determinations regarding receiving, handling, and temporarily storing HHW are present

at each event. Third-Party Administrator shall use only licensed haulers and authorized disposal sites.

The Third-Party Administrator shall ensure that, at least 45 days before each Collection Event, Form TCEQ-20459 Notification for a Household Hazardous Waste Collection Event, as may be amended, is submitted to TCEQ in accordance with Chapter 335, Texas Administrative Code. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

b. Environmental Benefit

This SEP will provide a means of properly disposing of HHW which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with HHW, and will provide for proper and protective disposal or recycling of collected materials.

c. Minimum Expenditure

The 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, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.  
Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75963-5067

### 3. **Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the 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. The 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 the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as 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 the Respondent failed to fully implement and complete the Project, the 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 Project, the 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 the 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**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the 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 the 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>	6-Jan-2014	<b>Screening</b>	10-Jan-2014	<b>EPA Due</b>	
	<b>PCW</b>	16-Jan-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Springtown				
<b>Reg. Ent. Ref. No.</b>	RN101392397				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48120	<b>No. of Violations</b>	3
<b>Docket No.</b>	2014-0076-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Michaëlle Garza
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$900
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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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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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>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$8,607
Approx. Cost of Compliance	\$110,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$900
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$900

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$900
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$180
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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.

<b>PAYABLE PENALTY</b>	\$720
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**Screening Date** 10-Jan-2014

**Docket No.** 2014-0076-MLM-E

**PCW**

**Respondent** City of Springtown

Policy Revision 3 (September 2011)

**Case ID No.** 48120

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101392397

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Michaelle Garza

**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> )	0	0%
	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%
<i>Please Enter Yes or No</i>			
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)** 0%

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

N/A

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

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

Satisfactory Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%

Screening Date 10-Jan-2014

Docket No. 2014-0076-MLM-E

PCW

Respondent City of Springtown

Policy Revision 3 (September 2011)

Case ID No. 48120

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392397

Media [Statute] Public Water Supply

Enf. Coordinator Michaëlle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(i) and (b)(2)(B) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the surface water treatment plant produces 700 gpm and the wells produce 59 gpm. With 1,414 connections, the minimum required production capacity is 848 gpm which is a 10.5% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Failure to provide adequate production capacity could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2 Number of violation days 113

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

Violation Base Penalty \$300

Two quarterly events are recommended, calculated from the date of the investigation, September 19, 2013, to the date of screening, January 10, 2014.

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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$479

Violation Final Penalty Total \$300

This violation Final Assessed Penalty (adjusted for limits) \$300

## Economic Benefit Worksheet

**Respondent** City of Springtown  
**Case ID No.** 48120  
**Reg. Ent. Reference No.** RN101392397  
**Media** Public Water Supply  
**Violation No.** 1

<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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	19-Sep-2013	1-Feb-2015	1.37	\$23	\$457	\$479
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

The delayed cost includes the estimated amount to increase the total production capacity to 0.6 gpm per connection, calculated from the date of the investigation to 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

\$5,000

**TOTAL**

\$479

Screening Date 10-Jan-2014

Docket No. 2014-0076-MLM-E

PCW

Respondent City of Springtown

Policy Revision 3 (September 2011)

Case ID No. 48120

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392397

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(4)

Violation Description

Failed to maintain all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition. Specifically, the ground storage tank ("GST") at the 5th Street pump station was leaking.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to maintain a watertight condition could allow a significant amount of contaminants to enter the distribution system which would not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

113 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$300

Two quarterly events are recommended, calculated from the date of the investigation, September 19, 2013, to the date of screening, January 10, 2014.

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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7,825

Violation Final Penalty Total \$300

This violation Final Assessed Penalty (adjusted for limits) \$300

## Economic Benefit Worksheet

**Respondent** City of Springtown  
**Case ID No.** 48120  
**Reg. Ent. Reference No.** RN101392397  
**Media** Public Water Supply  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100,000	19-Sep-2013	1-Nov-2014	1.12	\$373	\$7,452	\$7,825
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

The delayed cost includes the estimated amount to repair or replace the GST, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$100,000

**TOTAL**

\$7,825

Screening Date 10-Jan-2014

Docket No. 2014-0076-MLM-E

PCW

Respondent City of Springtown

Policy Revision 3 (September 2011)

Case ID No. 48120

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392397

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)

Violation Description

Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, both lagoons had large sludge accumulations, were overgrown with cattails and other vegetation, and the concrete pond was almost full of sludge and had vegetative growth.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to remove sludge and vegetation from the lagoons and the concrete pond could allow a significant amount of contaminants to enter the environment which would not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

113 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$300

Two quarterly events are recommended, calculated from the date of the investigation, September 19, 2013, to the date of screening, January 10, 2014.

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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$303

Violation Final Penalty Total \$300

This violation Final Assessed Penalty (adjusted for limits) \$300

# Economic Benefit Worksheet

**Respondent** City of Springtown  
**Case ID No.** 48120  
**Reg. Ent. Reference No.** RN101392397  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	19-Sep-2013	1-Aug-2014	0.87	\$14	\$289	\$303
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

The delayed cost includes the estimated amount to remove sludge and vegetation from the lagoons and the concrete pond and transport for authorized disposal, calculated from the date of the investigation to 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

\$5,000
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**TOTAL**

\$303
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# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	6-Jan-2014	Screening	10-Jan-2014	EPA Due	
	PCW	16-Jan-2014				

## RESPONDENT/FACILITY INFORMATION

Respondent	City of Springtown		
Reg. Ent. Ref. No.	RN101392397		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	48120	No. of Violations	1
Docket No.	2014-0076-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media	Public Water Supply	Enf. Coordinator	Michaelle Garza
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance   
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 10-Jan-2014

Docket No. 2014-0076-MLM-E

PCW

Respondent City of Springtown

Policy Revision 3 (September 2011)

Case ID No. 48120

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392397

Media [Statute] Water Quality

Enf. Coordinator Michaelle Garza

### 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> )	0	0%
	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)** 0%

>> Repeat Violator (Subtotal 3)

N/A

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

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

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

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

>> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 0%

**Screening Date** 10-Jan-2014  
**Respondent** City of Springtown  
**Case ID No.** 48120  
**Reg. Ent. Reference No.** RN101392397  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Michaelle Garza  
**Violation Number** 1

**Docket No.** 2014-0076-MLM-E

**PCW**

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.42(a) and 290.42(i), and Tex. Water Code § 26.121(a)

**Violation Description**  
 Failed to obtain authorization from the Commission prior to any discharge of wastewater. Specifically, the Facility was discharging backwash water from the filters and decant water from the sedimentation lagoons to the nearby unnamed creek without authorization.

**Base Penalty** \$25,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 4 Number of violation days 113

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$5,000

Four monthly events are recommended, calculated from the date of the investigation, September 19, 2013, to the date of screening, January 10, 2014.

**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** \$5,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount \$205

**Violation Final Penalty Total** \$5,000

**This violation Final Assessed Penalty (adjusted for limits)** \$5,000

# Economic Benefit Worksheet

**Respondent** City of Springtown  
**Case ID No.** 48120  
**Reg. Ent. Reference No.** RN101392397  
**Media** Water Quality  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$3,000	19-Sep-2013	1-Feb-2015	1.37	\$205	n/a	\$205
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to obtain authorization for the discharge of backwash water from the filters and decant water from the sedimentation lagoons or to cease the unauthorized discharge, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$3,000

**TOTAL**

\$205

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.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600638738, RN101392397, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600638738, City of Springtown      **Classification:** SATISFACTORY      **Rating:** 35.10

**Regulated Entity:** RN101392397, CITY OF SPRINGTOWN PWS      **Classification:** NOT APPLICABLE      **Rating:** N/A

**Complexity Points:** N/A      **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** WEST END OF PEDEN ROAD, WEST OF FARM-TO-MARKET ROAD 730, PARKER COUNTY, TEXAS

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 1840003      **WATER LICENSING LICENSE** 1840003

**Compliance History Period:** September 01, 2008 to August 31, 2013      **Rating Year:** 2013      **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** January 08, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 08, 2009 to January 08, 2014

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

**Name:** Michaelle Garza

**Phone:** (210) 403-4076

### **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.):**

N/A

**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.

N/A

**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  
CITY OF SPRINGTOWN  
RN101392397

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

AGREED ORDER  
DOCKET NO. 2014-0076-MLM-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 Springtown (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and 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 public water supply at the west end of Peden Road, west of Farm-to-Market Road 730, in Parker County, Texas (the "Facility") that has approximately 1,414 wholesale and retail service connections and serves at least 25 people per day for at least 60 days per year.
2. Respondent has discharged wastewater 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 December 20, 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 Five Thousand Nine Hundred Dollars (\$5,900) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). One Thousand One Hundred Eighty Dollars (\$1,180) of the administrative penalty 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. Four Thousand Seven Hundred Twenty Dollars (\$4,720) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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:

1. Failed to obtain authorization from the Commission prior to any discharge of wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.42(a) and 290.42(i), and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on September 19, 2013. Specifically, the Facility was discharging backwash water from the filters and decant water from the sedimentation lagoons to the nearby unnamed creek without authorization.
2. Failed to provide a production capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and (b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on September 19, 2013. Specifically, the surface water treatment plant produces 700 gpm and the wells produce 59 gpm. With 1,414 connections, the minimum required production capacity is 848 gpm which is a 10.5% deficiency.
3. Failed to maintain all distribution system lines, storage and pressure maintenance facilities, water treatment units, and all related appurtenances in a watertight condition,

in violation of 30 TEX. ADMIN. CODE §290.46(m)(4), as documented during an investigation conducted on September 19, 2013. Specifically, the ground storage tank ("GST") at the 5th Street pump station was leaking.

4. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE §290.46(m), as documented during an investigation conducted on September 19, 2013. Specifically, both lagoons had large sludge accumulations, were overgrown with cattails and other vegetation, and the concrete pond was almost full of sludge and had vegetative growth.

### 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 Springtown, Docket No. 2014-0076-MLM-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 a SEP in accordance with TEX. WATER CODE §7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Seven Hundred Twenty Dollars (\$4,720) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. 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 undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease the unauthorized discharge of backwash water from the filters and decant water from the sedimentation lagoons until such time that authorization is obtained, in accordance with TEX. WATER CODE §26.121;

- b. Within 15 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.;
- c. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application for the discharge of backwash water from the filters and decant water from the sedimentation lagoons to:

Wastewater Permits Section  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning its permit application within 15 days after the date of such requests or before any other deadline specified in writing;

- d. Within 60 days after the effective date of this Agreed Order:
  - i. Submit written certification as described in Ordering Provision No. 3.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.;
  - ii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility's systems and equipment, including but not limited to removing and properly disposing of the excess sludge and vegetation from the lagoons and the concrete pond, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
  - iii. Begin maintaining all distribution system lines, storage and pressure maintenance facilities, water treatment units, and related appurtenances in a watertight condition, including but not limited to repairing or replacing the GST at the 5th Street pump station, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- e. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.d.ii. and 3.d.iii.;
- f. Within 180 days after the effective date of this Agreed Order:
  - i. Provide a minimum production capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and

- ii. Obtain approval of the permit application for the discharge of backwash water from the filters and decant water from the sedimentation lagoons, in accordance with 30 TEX. ADMIN. CODE § 290.42.
- g. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.f.i. and 3.f.ii. 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 Ordering Provision No. 3.a., 3.c., and 3.f.ii. above 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

Penny Newton J  
For the Executive Director

10/31/14  
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.

Douglas Hughes  
Signature

4-21-2014  
Date

DOUGLAS HUGHES  
Name (Printed or typed)  
Authorized Representative of  
City of Springtown

MAYOR  
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: 2014-0076-MLM-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Springtown</b>
<b>Penalty Amount:</b>	<b>Four Thousand Seven Hundred Twenty Dollars (\$4,720)</b>
<b>SEP Offset Amount:</b>	<b>Four Thousand Seven Hundred Twenty Dollars (\$4,720)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc.</b>
<b>Project Name:</b>	<b><i>Household Hazardous Waste Collection</i></b>
<b>Location of SEP:</b>	<b>Parker County: Brazos River Basin, Trinity Aquifer</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the 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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)** for the *Household Hazardous Waste (“HHW”) Collection* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities (collectively known as “Partner Entities”) to conduct events for residents to bring in HHW such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers for proper disposal (the “Project”). Where possible, the Project may also offer electronics collection, disposal, and recycling. The Third-Party Administrator shall work with Partner Entities to determine exactly which materials will be accepted and how they will be disposed of or recycled.

The Third-Party Administrator shall ensure that individuals qualified to make determinations regarding receiving, handling, and temporarily storing HHW are present

at each event. Third-Party Administrator shall use only licensed haulers and authorized disposal sites.

The Third-Party Administrator shall ensure that, at least 45 days before each Collection Event, Form TCEQ-20459 Notification for a Household Hazardous Waste Collection Event, as may be amended, is submitted to TCEQ in accordance with Chapter 335, Texas Administrative Code. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

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

b. Environmental Benefit

This SEP will provide a means of properly disposing of HHW which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with HHW, and will provide for proper and protective disposal or recycling of collected materials.

c. Minimum Expenditure

The 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, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D Areas, Inc.  
Ken Awtrey, Executive Director  
P.O. Box 635067  
Nacogdoches, Texas 75963-5067

### 3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the 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. The 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 the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount, as 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 the Respondent failed to fully implement and complete the Project, the 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 Project, the 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 the 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**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.