

Executive Summary – Enforcement Matter – Case No. 48442

City of Brady

RN101613693

Docket No. 2014-0412-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Brady Creek Plant, located 5,000 feet east of the intersection of U.S. Highway 87 and 7th Street, Brady, and on the west bank of Brady Creek, McCulloch County

Type of Operation:

Wastewater treatment plant with an associated wastewater collection system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 27, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,000

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$6,000

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

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 48442

City of Brady

RN101613693

Docket No. 2014-0412-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 14, 2014

Date(s) of NOE(s): February 27, 2014

Violation Information

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010132001, Permit Conditions No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By November 6, 2013, the Respondent installed caps on the manholes to minimize the effects of inflow and infiltration, jetted the manholes, chlorinated the affected areas, and replaced the back-up generator.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

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: Jason Fraley, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2552; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

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

Respondent: Kim Lenoir, City Manager, City of Brady, P.O. Box 351, Brady, Texas 76825-0351

The Honorable Anthony Groves, Mayor, City of Brady, P.O. Box 351, Brady, Texas 76825-0351

Respondent's Attorney: N/A

Attachment A
Docket Number: 2014-0412-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Brady
Penalty Amount:	Six Thousand Dollars (\$6,000)
SEP Offset Amount:	Six Thousand Dollars (\$6,000)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Cleanup of Unauthorized Trash Dumpsites</i>
Location of SEP:	McCulloch County; Colorado River Basin, Edwards-Trinity Plateau Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset 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 *Cleanup of Unauthorized Trash Dumpsites*. 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 (“Partner Entities”) to clean up sites where trash, tires, or other materials have been illegally disposed of (the “Project”).

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely 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 contributed 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 shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

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.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

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

DATES	Assigned	3-Mar-2014	Screening	18-Mar-2014	EPA Due	
	PCW	19-Mar-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Brady (Collection System)
Reg. Ent. Ref. No.	RN101613693
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	48442	No. of Violations	1
Docket No.	2014-0412-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jason Fraley
		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**

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 18-Mar-2014

Docket No. 2014-0412-MWD-E

PCW

Respondent City of Brady (Collection System)

Policy Revision 3 (September 2011)

Case ID No. 48442

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613693

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

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>)	1	5%
	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 judgments 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) 5%

>> **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 one month of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 5%

Screening Date 18-Mar-2014

Docket No. 2014-0412-MWD-E

PCW

Respondent City of Brady (Collection System)

Policy Revision 3 (September 2011)

Case ID No. 48442

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613693

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010132001, Permit Conditions No. 2.g.

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on January 14, 2014. Specifically, three unauthorized discharges were reported from the collection system from September 2012 to September 2013, as shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

3 Number of violation days

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

Violation Base Penalty \$3,750

Three quarterly events are recommended (one for each discharge).

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes

The Respondent achieved compliance by September 30, 2013.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,596

Violation Final Penalty Total \$3,001

This violation Final Assessed Penalty (adjusted for limits) \$3,001

Economic Benefit Worksheet

Respondent City of Brady (Collection System)
Case ID No. 48442
Reg. Ent. Reference No. RN101613693
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50,000	20-Sep-2012	30-Sep-2013	1.03	\$171	\$3,425	\$3,596
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

Estimated costs to jet manholes, chlorinate the affected areas, and install caps on manholes to minimize infiltration and inflow from heavy rains. The date required is the date of the first unauthorized discharge, and the final date is the 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

\$3,596



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ DATES	Assigned	3-Mar-2014	Screening	18-Mar-2014	EPA Due	
	PCW	19-Mar-2014				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Brady (Facility)		
Reg. Ent. Ref. No.	RN101613693		
Facility/Site Region	8-San Angelo	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	48442	No. of Violations	1
Docket No.	2014-0412-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jason Fraley
		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	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
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Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$187
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Notes: Enhancement for one month 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	-\$937
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$834	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$50,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$3,000
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Screening Date 18-Mar-2014

Docket No. 2014-0412-MWD-E

PCW

Respondent City of Brady (Facility)

Policy Revision 3 (September 2011)

Case ID No. 48442

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101613693

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

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>)	1	5%
	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 judgments 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) 5%

>> 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 one month of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 18-Mar-2014
Respondent City of Brady (Facility)
Case ID No. 48442
Reg. Ent. Reference No. RN101613693
Media [Statute] Water Quality
Enf. Coordinator Jason Fraley

Docket No. 2014-0412-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010132001, Permit Conditions No. 2.g.

Violation Description
 Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on January 14, 2014. Specifically, one unauthorized discharge was reported from the Facility on August 11, 2013, as shown in the attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent <input type="text" value="15.0%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes
 Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes
 The Respondent achieved compliance by November 6, 2013.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Brady (Facility)
Case ID No. 48442
Reg. Ent. Reference No. RN101613693
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)	\$50,000	11-Aug-2013	6-Nov-2013	0.24	\$40	\$795	\$834
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

Estimated costs to replace the generator at the Facility. The date required is the date of the unauthorized discharge, and the final date is the 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

\$834

City of Brady
Docket No. 2014-0412-MWD-E
TPDES Permit No. WQ0010132001

Unauthorized Discharge Table

Date	Location	Amount Discharged (gallons)	Description	Corrective Action Date	Corrective Action
September 20, 2012	Wall Street at 17th Street	300	Manhole backup.	September 20, 2012	Jetted the manhole and chlorinated the affected area.
November 30, 2012	Wall Street at 17th Street	200	Manhole overflowed due to clogged 6" line.	November 30, 2012	Jetted the manhole and chlorinated the affected area.
August 11, 2013	The Facility	25,000-30,000	Power outage and back-up generator failure.	August 11, 2013	Replaced the generator.
September 23, 2013	900 West 1st Street	400	Manhole overflowed due to clogged 6" line.	September 23, 2013	Jetted the manhole and chlorinated the affected area.

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 CN600249866, RN101613693, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600249866, City of Brady **Classification:** SATISFACTORY **Rating:** 1.21
Regulated Entity: RN101613693, Brady Creek Plant **Classification:** SATISFACTORY **Rating:** 1.00
Complexity Points: 11 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities
Location: 5,000 feet east of the intersection of United States Highway 87 and 7th street in the City of Brady, on the west bank of Brady Creek in McCullough County, Texas 76825

TCEQ Region: REGION 08 - SAN ANGELO

ID Number(s):

WASTEWATER PERMIT WQ0010132001 **WASTEWATER EPA ID** TX0034312
WASTEWATER EPA ID TX0134406 **WASTEWATER PERMIT** WQ0010132004
WASTEWATER LICENSING LICENSE WQ0010132001

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

Date Compliance History Report Prepared: March 13, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 13, 2009 to March 13, 2014

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

Name: Jason Fraley

Phone: (512) 239-2552

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	March 19, 2009	(751941)
Item 2	April 21, 2009	(769704)
Item 3	May 21, 2009	(926416)

Item 4	June 22, 2009	(926417)
Item 5	July 23, 2009	(926418)
Item 6	August 25, 2009	(926419)
Item 7	September 23, 2009	(926420)
Item 8	October 22, 2009	(926421)
Item 9	November 24, 2009	(926422)
Item 10	December 21, 2009	(926423)
Item 11	February 22, 2010	(926412)
Item 12	March 19, 2010	(926413)
Item 13	April 23, 2010	(926414)
Item 14	May 21, 2010	(832329)
Item 15	June 21, 2010	(846715)
Item 16	August 23, 2010	(867380)
Item 17	September 20, 2010	(874411)
Item 18	November 09, 2010	(881994)
Item 19	December 20, 2010	(896780)
Item 20	January 11, 2011	(896779)
Item 21	March 21, 2011	(916818)
Item 22	May 23, 2011	(938531)
Item 23	June 20, 2011	(938530)
Item 24	July 18, 2011	(953156)
Item 25	August 02, 2011	(959803)
Item 26	September 28, 2011	(965839)
Item 27	October 24, 2011	(971884)
Item 28	November 21, 2011	(978048)
Item 29	December 20, 2011	(984819)
Item 30	January 23, 2012	(991109)
Item 31	February 21, 2012	(998474)
Item 32	March 21, 2012	(1004004)
Item 33	April 23, 2012	(1010565)
Item 34	May 21, 2012	(1016946)
Item 35	June 18, 2012	(1032067)
Item 36	June 22, 2012	(1024701)
Item 37	August 01, 2012	(1038491)
Item 38	September 18, 2012	(1080053)
Item 39	September 21, 2012	(1047297)
Item 40	November 26, 2012	(1063082)
Item 41	December 21, 2012	(1063083)
Item 42	February 22, 2013	(1080052)
Item 43	March 21, 2013	(1089818)
Item 44	April 22, 2013	(1096215)
Item 45	May 22, 2013	(1107157)
Item 46	June 24, 2013	(1110808)
Item 47	August 02, 2013	(1125482)
Item 48	September 23, 2013	(1130050)
Item 49	October 25, 2013	(1135800)
Item 50	November 26, 2013	(1141194)
Item 51	December 27, 2013	(1147659)
Item 52	January 27, 2014	(1153711)

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: 06/30/2013 (1117692) CN600249866
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

Description: Permit Conditions, Item 2.g. PERMIT
Failure to prevent an unauthorized discharge (UD) from the collection system.
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Lim. and Monitoring Req PERMIT

Description: Failure to meet the effluent limitations for E. coli during the monitoring period ending June 30, 2010.
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to record and maintain a temperature log for the composite sampler.
Classification: Moderate

Self Report? NO
Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)
Description: Failure to use the correct test method for conducting E. coli analysis.
Classification: Minor

Self Report? NO
Citation: 30 TAC Chapter 319, SubChapter A 319.9(d)
Description: Failure to perform Quality Control analyses for chlorine residual monitoring at the required frequency.

7* Date: 09/30/2012 (1063081) CN600249866
Classification: Moderate

Self Report? YES
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

8* Date: 01/15/2013 (1051010) CN600249866
Classification: Major

Self Report? NO
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
PP V. 2.g. PERMIT
Description: Failed to prevent an unauthorized discharge of wastewater or any other waste.

9* Date: 06/30/2013 (1117692) CN600249866
Classification: Moderate

Self Report? YES
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

* NOVs applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

Appendix B

All Investigations Conducted During Component Period March 13, 2009 and March 13, 2014

(751941)
Item 1* March 19, 2009**

(769704)
Item 2* April 21, 2009**

(926416)
Item 3* May 21, 2009**

(926417)
Item 4* June 22, 2009**

		(926418)
Item 5*	July 23, 2009**	For Informational Purposes Only
		(926419)
Item 6*	August 25, 2009**	For Informational Purposes Only
		(767481)
Item 7	August 28, 2009**	For Informational Purposes Only
		(926420)
Item 8*	September 23, 2009**	For Informational Purposes Only
		(926421)
Item 9*	October 22, 2009**	For Informational Purposes Only
		(778243)
Item 10	November 13, 2009**	For Informational Purposes Only
		(926422)
Item 11*	November 24, 2009**	For Informational Purposes Only
		(926423)
Item 12*	December 21, 2009**	For Informational Purposes Only
		(788884)
Item 13	January 29, 2010**	For Informational Purposes Only
		(926412)
Item 14*	February 22, 2010**	For Informational Purposes Only
		(926413)
Item 15*	March 19, 2010**	For Informational Purposes Only
		(926414)
Item 16*	April 23, 2010**	For Informational Purposes Only
		(832329)
Item 17*	May 21, 2010**	For Informational Purposes Only
		(846715)
Item 18*	June 21, 2010**	For Informational Purposes Only
		(861244)
Item 19	July 09, 2010**	For Informational Purposes Only
		(867380)
Item 20*	August 23, 2010**	For Informational Purposes Only
		(874411)
Item 21*	September 20, 2010**	For Informational Purposes Only
		(881994)
Item 22*	November 09, 2010**	For Informational Purposes Only
		(879493)
Item 23	December 09, 2010**	For Informational Purposes Only
		(896780)
Item 24*	December 20, 2010**	For Informational Purposes Only
		(896779)
Item 25*	January 11, 2011**	For Informational Purposes Only
		(916818)

Item 26*	March 21, 2011**	For Informational Purposes Only (926415)
Item 27	April 21, 2011**	For Informational Purposes Only (938531)
Item 28*	May 23, 2011**	For Informational Purposes Only (938530)
Item 29*	June 20, 2011**	For Informational Purposes Only (953156)
Item 30*	July 18, 2011**	For Informational Purposes Only (959803)
Item 31*	August 02, 2011**	For Informational Purposes Only (965839)
Item 32*	September 28, 2011**	For Informational Purposes Only (971884)
Item 33*	October 24, 2011**	For Informational Purposes Only (978048)
Item 34*	November 21, 2011**	For Informational Purposes Only (974822)
Item 35	December 19, 2011**	For Informational Purposes Only (984819)
Item 36*	December 20, 2011**	For Informational Purposes Only (991109)
Item 37*	January 23, 2012**	For Informational Purposes Only (983478)
Item 38	February 09, 2012**	For Informational Purposes Only (998474)
Item 39*	February 21, 2012**	For Informational Purposes Only (1004004)
Item 40*	March 21, 2012**	For Informational Purposes Only (1010565)
Item 41*	April 23, 2012**	For Informational Purposes Only (1016946)
Item 42*	May 21, 2012**	For Informational Purposes Only (1032067)
Item 43*	June 18, 2012**	For Informational Purposes Only (1024701)
Item 44*	June 22, 2012**	For Informational Purposes Only (1038491)
Item 45*	August 01, 2012**	For Informational Purposes Only (1080053)
Item 46*	September 18, 2012**	For Informational Purposes Only (1047297)

Item 47*	September 21, 2012**	For Informational Purposes Only (1063081)
Item 48	October 22, 2012**	For Informational Purposes Only (1063082)
Item 49*	November 26, 2012**	For Informational Purposes Only (1063083)
Item 50*	December 21, 2012**	For Informational Purposes Only (1051010)
Item 51	January 17, 2013**	For Informational Purposes Only (1080052)
Item 52*	February 22, 2013**	For Informational Purposes Only (1073564)
Item 53	March 20, 2013**	For Informational Purposes Only (1089818)
Item 54*	March 21, 2013**	For Informational Purposes Only (1096215)
Item 55*	April 22, 2013**	For Informational Purposes Only (1107157)
Item 56*	May 22, 2013**	For Informational Purposes Only (1110808)
Item 57*	June 24, 2013**	For Informational Purposes Only (1117692)
Item 58	July 23, 2013**	For Informational Purposes Only (1125482)
Item 59*	August 02, 2013**	For Informational Purposes Only (1130050)
Item 60*	September 23, 2013	For Informational Purposes Only (1135800)
Item 61*	October 25, 2013	For Informational Purposes Only (1141194)
Item 62*	November 26, 2013	For Informational Purposes Only (1147659)
Item 63*	December 27, 2013	For Informational Purposes Only (1153711)
Item 64*	January 27, 2014	For Informational Purposes Only (1144070)
Item 65	February 27, 2014	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BRADY
RN101613693**

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

**AGREED ORDER
DOCKET NO. 2014-0412-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Brady (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant (the "Facility") located 5,000 feet east of the intersection of United States Highway 87 and 7th Street in Brady, on the west bank of Brady Creek and an associated wastewater collection system in McCulloch County, Texas.

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on January 14, 2014, TCEQ staff documented the following unauthorized discharges:

Date	Location	Amount Discharged (gallons)	Description	Corrective Action Date	Corrective Action
September 20, 2012	Wall Street at 17th Street	300	Manhole backup.	September 20, 2012	Jetted the manhole and chlorinated the affected area.
November 30, 2012	Wall Street at 17th Street	200	Manhole overflowed due to clogged 6" line.	November 30, 2012	Jetted the manhole and chlorinated the affected area.
August 11, 2013	The Facility	25,000-30,000	Power outage and back-up generator failure.	August 11, 2013	Replaced the generator.
September 23, 2013	900 West 1st Street	400	Manhole overflowed due to clogged 6" line.	September 23, 2013	Jetted the manhole and chlorinated the affected area.

4. The Respondent received notice of the violations on March 3, 2014.
5. The Executive Director recognizes that by November 6, 2013, the Respondent installed caps on the manholes to minimize the effects of inflow and infiltration, jetted the manholes, chlorinated the affected areas, and replaced the back-up generator.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE §26.121(a)(1), 30 TEX. ADMIN. CODE §305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010132001, Permit Conditions No. 2.g.

3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Six Thousand Dollars (\$6,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Six Thousand Dollars (\$6,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Dollars (\$6,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Brady, Docket No. 2014-0412-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 a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 (Conclusions of Law) above, Six Thousand Dollars (\$6,000) 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. 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 and collection system operations referenced in this Agreed Order.

4. 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.
5. 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.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

12/17/14
Date

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

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

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

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

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


Signature

5/28/2014
Date

KIM LENOIR, CITY MGR.
Name (Printed or typed)
Authorized Representative of
City of Brady

City Manager
Title

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

Attachment A
Docket Number: 2014-0412-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Brady
Penalty Amount:	Six Thousand Dollars (\$6,000)
SEP Offset Amount:	Six Thousand Dollars (\$6,000)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Association of Resource Conservation and Development Areas, Inc.
Project Name:	<i>Cleanup of Unauthorized Trash Dumpsites</i>
Location of SEP:	McCulloch County; Colorado River Basin, Edwards-Trinity Plateau Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset 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 *Cleanup of Unauthorized Trash Dumpsites*. 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 (“Partner Entities”) to clean up sites where trash, tires, or other materials have been illegally disposed of (the “Project”).

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely 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 contributed 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 shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

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.
Attn.: Jerry Pearce, Executive Director
P.O. Box 2533
Victoria, Texas 77902

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.