

**Executive Summary – Enforcement Matter – Case No. 48824**  
**City of Jacksonville**  
**RN101613305**  
**Docket No. 2014-0826-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

Canada Street Wastewater Treatment Facility, located at 1302 Canada Street, southeast of the crossing of Ragsdale Creek by Canada Street, southeast of Jacksonville, Cherokee County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 3, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,375

**Amount Deferred for Expedited Settlement:** \$2,475

**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:** \$9,900

Name of SEP: City Wide Cleanup (Custom SEP)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 48824  
City of Jacksonville  
RN101613305  
Docket No. 2014-0826-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** May 13, 2014  
**Date(s) of NOE(s):** May 21, 2014

***Violation Information***

Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010693001, Interim Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
2. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010693001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 48824**  
**City of Jacksonville**  
**RN101613305**  
**Docket No. 2014-0826-MWD-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division,  
Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Stephanie Frazee, SEP Coordinator, Litigation Division,  
MC 175, (512) 239-3693

**Respondent:** Mo Raissi, City Manager, City of Jacksonville, P.O. Box 1390,  
Jacksonville, Texas 75766

**Respondent's Attorney:** N/A



**Attachment A**

**Docket Number: 2014-0826-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

|                           |  |
|---------------------------|--|
| <b>Respondent:</b>        | City of Jacksonville                         |
| <b>Penalty Amount:</b>    | Nine Thousand Nine Hundred Dollars (\$9,900) |
| <b>SEP Offset Amount:</b> | Nine Thousand Nine Hundred Dollars (\$9,900) |
| <b>Type of SEP:</b>       | Custom                                       |
| <b>Project Name:</b>      | <i>City-wide Cleanup</i>                     |
| <b>Location of SEP:</b>   | Cherokee County                              |

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

**1. Project Description**

A. Project

Respondent shall hold two (2) one-day cleanup events to its citizens at no cost to them. Respondent will provide six (6) supervised drop-off sites so that citizens can dispose of dead tree limbs and brush, old lawn mowers, used paint, old carpet and furniture, appliances without Freon, batteries, E-waste and scrap metal, used oil, and tires (the “Project”). Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, *Publicity*. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

The event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*.

Respondent shall ensure that the collection event:

1. Advertised to the public;
2. Occurs during daylight hours;
3. Offers to the public a convenient drop-off location; and
4. Uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection

C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This Project will prevent the unlawful disposal of waste products and reduce expected pollution activities. It will also allow citizens to lawfully dispose of waste products in a planned and monitored manner.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

| Item                                   | Quantity | Cost  | Units  | Total           |
|--|----------|-------|--------|-----------------|
| Roll-off Bins & Disposal Fees          | 24       | \$450 | Each   | \$10,800        |
| Printing of Flyers                     | 5000     | \$600 | Bundle | \$600           |
| Public Notification in Local Newspaper | 2        | \$175 | Each   | \$350           |
| Postage & Mail Out                     | 2        | \$55  | Each   | \$110           |
| <b>Total</b>                           |          |       |        | <b>\$11,860</b> |

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

**3. Records and Reporting**

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

| <b>Days from Effective Order Date</b> | <b>Information Required</b>                                      |
|---------------------------------------|--|
| 30                                    | Notice of Commencement describing actions taken to begin project |
| 90                                    | Actions completed during previous 60-day period                  |
| 180                                   | Actions completed during previous 90-day period                  |
| 270                                   | Actions completed during previous 90-day period                  |
| 365                                   | Notice of SEP completion   |

**B. Final Report**

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.;
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

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

#### 4. **Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

#### 5. **Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for 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

#### 6. **Publicity**

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

#### 7. **Clean Texas Program**

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

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

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

|              |                 |             |                  |             |                |             |
|--------------|-----------------|-------------|------------------|-------------|----------------|-------------|
| <b>DATES</b> | <b>Assigned</b> | 27-May-2014 | <b>Screening</b> | 10-Jun-2014 | <b>EPA Due</b> | 15-Mar-2014 |
|              | <b>PCW</b>      | 11-Jun-2014 |                  |             |                |             |

## RESPONDENT/FACILITY INFORMATION

|                             |                      |                           |       |
|-----------------------------|----------------------|---------------------------|-------|
| <b>Respondent</b>           | City of Jacksonville |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN101613305          |                           |       |
| <b>Facility/Site Region</b> | 5-Tyler              | <b>Major/Minor Source</b> | Major |

## CASE INFORMATION

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 48824           | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2014-0826-MWD-E | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Water Quality   | <b>Government/Non-Profit</b> | Yes                |
| <b>Multi-Media</b>                     |                 | <b>Enf. Coordinator</b>      | Cheryl Thompson    |
|  |                 | <b>EC's Team</b>             | Enforcement Team 3 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0             | <b>Maximum</b>               | \$25,000           |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$7,500**

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

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

**Compliance History** **65.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,875**

Notes: Enhancement for four months of self-reported effluent violations, one order with denial of liability, and one order without denial of liability.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$623  
Approx. Cost of Compliance \$10,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$12,375**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$12,375**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$12,375**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$2,475**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$9,900**

Screening Date 10-Jun-2014

Docket No. 2014-0826-MWD-E

PCW

Respondent City of Jacksonville

Policy Revision 4 (April 2014)

Case ID No. 48824

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101613305

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 4                 | 20%     |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 1                 | 25%     |
| 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%      |

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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for four months of self-reported effluent violations, one order with denial of liability, and one order without denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

Screening Date 10-Jun-2014  
 Respondent City of Jacksonville  
 Case ID No. 48824

Docket No. 2014-0826-MWD-E

PCW

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101613305  
 Media [Statute] Water Quality  
 Enf. Coordinator Cheryl Thompson  
 Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010693001, Interim Effluent Limitations and Monitoring Requirements No.1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on May 13, 2014. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          | X     | 15.0%   |
| Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0.0%    |

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 120

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

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of December 2013, January 2014, February 2014 and March 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$623

Violation Final Penalty Total \$12,375

This violation Final Assessed Penalty (adjusted for limits) \$12,375

# Economic Benefit Worksheet

**Respondent** City of Jacksonville  
**Case ID No.** 48824  
**Reg. Ent. Reference No.** RN101613305  
**Media** Water Quality  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

**Delayed Costs**

|                          |          |             |             |      |       |     |       |
|--------------------------|----------|-------------|-------------|------|-------|-----|-------|
| Equipment                |          |             |             | 0.00 | \$0   | \$0 | \$0   |
| Buildings                |          |             |             | 0.00 | \$0   | \$0 | \$0   |
| Other (as needed)        |          |             |             | 0.00 | \$0   | \$0 | \$0   |
| Engineering/Construction |          |             |             | 0.00 | \$0   | \$0 | \$0   |
| Land                     |          |             |             | 0.00 | \$0   | n/a | \$0   |
| Record Keeping System    |          |             |             | 0.00 | \$0   | n/a | \$0   |
| Training/Sampling        |          |             |             | 0.00 | \$0   | n/a | \$0   |
| Remediation/Disposal     |          |             |             | 0.00 | \$0   | n/a | \$0   |
| Permit Costs             |          |             |             | 0.00 | \$0   | n/a | \$0   |
| Other (as needed)        | \$10,000 | 31-Dec-2013 | 31-Mar-2015 | 1.25 | \$623 | n/a | \$623 |

**Notes for DELAYED costs**

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with permitted effluent limits. Date required is the first month of noncompliance. Final date is the expected date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$623

CITY OF JACKSONVILLE

TPDES PERMIT NO. WQ0010693001; RN101613305

DOCKET NO. 2014-0826-MWD-E; CASE NO. 48824

|               | CBOD <sub>5</sub><br>Daily<br>Average<br>Conc. | CBOD <sub>5</sub><br>Daily<br>Maximum |
|---------------|--|---------------------------------------|
| Month/Year    | 7 mg/L   | 17 mg/L                               |
| December 2013 | 7.42   | 21.3                                  |
| January 2014  | 8.12   | c                                     |
| February 2014 | 7.84   | c                                     |
| March 2014    | 8.18   | c                                     |

CBOD<sub>5</sub> = carbonaceous biochemical oxygen demand, 5-day  
c = compliant conc. = concentration mg/L = milligrams per liter





# Compliance History Report

**PUBLISHED** Compliance History Report for CN600613608, RN101613305, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600613608, City of Jacksonville      **Classification:** SATISFACTORY      **Rating:** 4.84

**Regulated Entity:** RN101613305, City of Jacksonville      **Classification:** SATISFACTORY      **Rating:** 16.50  
Canada Street Wastewater Treatment Facility

**Complexity Points:** 5      **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** Located at 1302 Canada Street, southeast of the crossing of Ragsdale Creek by Canada Street, southeast of Jacksonville, Cherokee County, Texas

**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):** WASTEWATER PERMIT WQ0010693001      **WASTEWATER** EPA ID TX0024392  
**PRETREATMENT** EPA ID TX0024392000      **PRETREATMENT** PERMIT WQ0010693001

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

**Date Compliance History Report Prepared:** June 30, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 27, 2009 to June 27, 2014

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

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

## **Site and Owner/Operator History:**

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

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

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

- 1      **Effective Date:** 08/23/2009      **ADMINORDER** 2008-1810-MWD-E      (Findings Order-Agreed Order Without Denial)  
    **Classification:** Moderate  
    **Citation:** 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
              30 TAC Chapter 305, SubChapter F 305.125(1)  
    **Rqmt Prov:** TPDES Permit WQ0010693001 PERMIT  
    **Description:** Failed to prevent the unauthorized discharge of wastewater into water in the state.
  
- 2      **Effective Date:** 01/27/2012      **ADMINORDER** 2011-0203-MWD-E      (1660 Order-Agreed Order With Denial)  
    **Classification:** Moderate  
    **Citation:** 30 TAC Chapter 315, SubChapter A 315.1  
              40 CFR Chapter 403, SubChapter N, PT 403 403.5(c)(1)  
    **Rqmt Prov:** Permit No. WQ0010693001 PERMIT  
              Pretreatment Item 2 PERMIT  
    **Description:** Failed to submit to TCEQ a TBLLs package and other components of the pretreatment program, Specifically, as documented in the April 7, 2010 pretreatment audit, the Respondent failed to submit a technical evaluation revising the current TBLLs, a draft sewer use ordinance incorporating any revisions to the TBLLs, modifications to the Pretreatment Program Enforcement Response Plan, and Standard Operating Procedures to the TCEQ for review and approval by March

5, 2008.

Classification: Moderate

Citation: 30 TAC Chapter 315, SubChapter A 315.1

40 CFR Chapter 403, SubChapter N, PT 403 403.5(c)(1)

40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(1)(iii)(B)

Rqmt Prov:Contributing Industries and Pretreatment PERMIT

Contributing Industries and Pretreatment PERMIT

Description: Failed to exercise the legal authority & implement procedures contained in Sec. 5.2.A.3 & 4 of City Ordinance No. 960 & indust'l Pretrtmt. Ord. 970, Sec. 1. Specifically, as documented in the April 7, 2010 pretreatment audit, the Respondent failed to determine the appropriate sample types and effluent limits in the wastewater discharge permits issued to various industrial users ("IUs"). Luvata introduced a new chromatig process, ..stds. of 40 CFR Sec. 468.14 were not correctly applied at EZO..

Classification: Minor

Citation: 30 TAC Chapter 315, SubChapter A 315.1

40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)

Rqmt Prov:Contributing Ind's & Pretrtmt. Req. 1 PERMIT

Description: failed to to conduct inspections at the frequency described within the ERP. Specifically, as documented in the April 7, 2010 pretreatment audit, the Respondent failed to conduct at least two scheduled on-site inspections per year two and one unscheduled inspection every six months at the Luvata and Snoke facilities, in accordance with the policies and procedures of the City's Industrl. Pretrtmt. Prog. On-Site Insp. Procedures. Only 1 scheduled & 1 unsched. insp. was conducted at ea. facility..

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov:Effl. limit's & Monitoring Reqs. 1 & 6 PERMIT

Description: Failed to comply with permit effluent limits for the Canada Facility

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

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

|         |                    |           |
|---------|--------------------|-----------|
| Item 1  | June 30, 2009      | (747583)  |
| Item 2  | August 20, 2009    | (806850)  |
| Item 3  | September 23, 2009 | (806851)  |
| Item 4  | November 19, 2009  | (806854)  |
| Item 5  | December 18, 2009  | (806856)  |
| Item 6  | January 20, 2010   | (806858)  |
| Item 7  | March 19, 2010     | (831648)  |
| Item 8  | May 24, 2010       | (831650)  |
| Item 9  | July 01, 2010      | (827259)  |
| Item 10 | July 02, 2010      | (828173)  |
| Item 11 | September 20, 2010 | (874177)  |
| Item 12 | February 18, 2011  | (909343)  |
| Item 13 | February 22, 2011  | (952910)  |
| Item 14 | May 13, 2011       | (938295)  |
| Item 15 | June 30, 2011      | (934287)  |
| Item 16 | August 18, 2011    | (959569)  |
| Item 17 | August 19, 2011    | (952909)  |
| Item 18 | September 12, 2011 | (990871)  |
| Item 19 | September 19, 2011 | (965609)  |
| Item 20 | October 21, 2011   | (971647)  |
| Item 21 | November 14, 2011  | (984581)  |
| Item 22 | December 21, 2011  | (984582)  |
| Item 23 | February 23, 2012  | (998242)  |
| Item 24 | March 19, 2012     | (1003758) |
| Item 25 | April 11, 2012     | (995788)  |
| Item 26 | April 13, 2012     | (1010329) |
| Item 27 | May 21, 2012       | (1016715) |
| Item 28 | June 25, 2012      | (1024454) |
| Item 29 | July 23, 2012      | (1031832) |
| Item 30 | August 20, 2012    | (1038262) |
| Item 31 | September 24, 2012 | (1046963) |





TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF JACKSONVILLE  
RN101613305

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

AGREED ORDER  
DOCKET NO. 2014-0826-MWD-E

I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Jacksonville ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 1302 Canada Street, southeast of the crossing of Ragsdale Creek by Canada Street, southeast of Jacksonville, in Cherokee County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. 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 May 23, 2014.
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 Twelve Thousand Three Hundred Seventy-Five Dollars (\$12,375) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Four Hundred

Seventy-Five Dollars (\$2,475) 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. Nine Thousand Nine Hundred Dollars (\$9,900) 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 failed to comply with permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010693001, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on May 13, 2014, and as shown in the table below:

|               | CBOD5<br>Daily<br>Average<br>Conc. | CBOD5<br>Daily<br>Maximum |
|---------------|------------------------------------|---------------------------|
| Month/Year    | 7 mg/L                             | 17 mg/L                   |
| December 2013 | 7.42                               | 21.3                      |
| January 2014  | 8.12                               | c                         |
| February 2014 | 7.84                               | c                         |
| March 2014    | 8.18                               | c                         |

CBOD5 = carbonaceous biochemical oxygen demand, 5-day  
 c = compliant conc. = concentration mg/L = milligrams per liter

### 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 Jacksonville, Docket No. 2014-0826-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 I, Paragraph 6 above, Nine Thousand Nine Hundred Dollars (\$9,900) 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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010693001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:  
  
"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and

accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Ramona J. Garcia*  
For the Executive Director

12/17/14  
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.

*Mo Raissi*  
Signature

9-3-2014  
Date

Mo Raissi  
Name (Printed or typed)  
Authorized Representative of  
City of Jacksonville

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 IV, Paragraph 1 of this Agreed Order.

**Attachment A**  
**Docket Number: 2014-0826-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

|                           |  |
|---------------------------|--|
| <b>Respondent:</b>        | City of Jacksonville                         |
| <b>Penalty Amount:</b>    | Nine Thousand Nine Hundred Dollars (\$9,900) |
| <b>SEP Offset Amount:</b> | Nine Thousand Nine Hundred Dollars (\$9,900) |
| <b>Type of SEP:</b>       | Custom                                       |
| <b>Project Name:</b>      | <i>City-wide Cleanup</i>                     |
| <b>Location of SEP:</b>   | Cherokee County                              |

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

**1. Project Description**

A. Project

Respondent shall hold two (2) one-day cleanup events to its citizens at no cost to them. Respondent will provide six (6) supervised drop-off sites so that citizens can dispose of dead tree limbs and brush, old lawn mowers, used paint, old carpet and furniture, appliances without Freon, batteries, E-waste and scrap metal, used oil, and tires (the “Project”). Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, *Publicity*. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

The event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*.

Respondent shall ensure that the collection event:

1. Advertised to the public;
2. Occurs during daylight hours;
3. Offers to the public a convenient drop-off location; and
4. Uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection

C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This Project will prevent the unlawful disposal of waste products and reduce expected pollution activities. It will also allow citizens to lawfully dispose of waste products in a planned and monitored manner.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

| Item                                   | Quantity | Cost  | Units  | Total           |
|--|----------|-------|--------|-----------------|
| Roll-off Bins & Disposal Fees          | 24       | \$450 | Each   | \$10,800        |
| Printing of Flyers                     | 5000     | \$600 | Bundle | \$600           |
| Public Notification in Local Newspaper | 2        | \$175 | Each   | \$350           |
| Postage & Mail Out                     | 2        | \$55  | Each   | \$110           |
| <b>Total</b>                           |          |       |        | <b>\$11,860</b> |

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

**3. Records and Reporting**

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

| <b>Days from Effective Order Date</b> | <b>Information Required</b>                                      |
|---------------------------------------|--|
| 30                                    | Notice of Commencement describing actions taken to begin project |
| 90                                    | Actions completed during previous 60-day period                  |
| 180                                   | Actions completed during previous 90-day period                  |
| 270                                   | Actions completed during previous 90-day period                  |
| 365                                   | Notice of SEP completion   |

**B. Final Report**

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.;
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

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

#### 4. **Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

#### 5. **Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for 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

#### 6. **Publicity**

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

#### 7. **Clean Texas Program**

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

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

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