

Executive Summary – Enforcement Matter – Case No. 48557

City of Bishop

RN101920684

Docket No. 2014-0547-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Bishop WWTP, located approximately 1.25 miles south of the intersection of U.S. Highway 77 and 6th Street, west of U.S. Highway 77 and adjacent to Carreta Creek, Nueces County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: August 22, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,188

Amount Deferred for Expedited Settlement: \$2,037

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: \$8,151

Name of SEP: Nueces River Authority (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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City of Bishop
RN101920684
Docket No. 2014-0547-MWD-E

Investigation Information

Complaint Date(s): January 10, 2014

Complaint Information: Alleged there was an unauthorized discharge of domestic sewage.

Date(s) of Investigation: February 3, 2014

Date(s) of NOE(s): April 4, 2014

Violation Information

1. Failed to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions at all times. Specifically, the standby pumps for Lift Station Nos. 1 and 2 were removed and not replaced and the standby pumps for Lift Station Nos. 4, 6 and 7 were non-operational [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010427001, Operational Requirements No. 1].

2. Failed to notify the TCEQ Regional Office within 24 hours of becoming aware of a noncompliance. Specifically, the unauthorized discharge that was discovered on or about December 10, 2013, was not reported until February 5, 2014 [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010427001, Monitoring and Reporting Requirements No. 7.a.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By February 5, 2014, the Respondent:

- a. Submitted the notification to the TCEQ Regional Office for the unauthorized discharge that occurred on or about December 10, 2013; and
- b. Updated the Facility's operational guidance and conducted employee training to ensure that the TCEQ Regional Office is notified within 24 hours of becoming aware of a noncompliance.

Technical Requirements:

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

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2. The Order will also require the Respondent to:

a. Within 90 days, replace the standby pumps at Lift Station Nos. 1 and 2, repair the standby pumps at Lift Station Nos. 4, 6 and 7, and repair/replace the perforated manhole located on South Avenue F between West Main Street and West 5th Street.

b. Within 105 days, submit written certification to demonstrate compliance with Ordering Provision 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: The Honorable Tem Miller, Mayor, City of Bishop, P.O. Box 356, Bishop, Texas 78343-0356

Respondent's Attorney: N/A

Attachment A

Docket Number: 2014-0547-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Bishop
Penalty Amount:	Eight Thousand One Hundred Fifty-One Dollars (\$8,151)
SEP Offset Amount:	Eight Thousand One Hundred Fifty-One Dollars (\$8,151)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Nueces River Authority
Project Name:	<i>Nueces River Basin Enhanced Water Quality Monitoring</i>
Location of SEP:	Nueces River Basin

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 **Nueces River Authority** for the *Nueces River Basin Enhanced Water Quality Monitoring* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used for sampling and analysis in the Nueces River Basin. The Third-Party Administrator shall use the SEP Offset Amount to pay its contractors to conduct field measurements and laboratory tests for total dissolved solids (“TDS”), sulfate, chloride, arsenic, barium, and strontium. The Third-Party Administrator shall also use the SEP Offset Amount to pay for vehicle and boat fuel necessary for the contractor to reach the monitoring sites. The Third-Party Administrator’s contractor shall measure water quality on a monthly basis at the following four sites:

1. Station No. 12980, Atascosa River at Farm-to-Market Road 99.
2. Station No. 12972, Nueces River at Farm-to-Market Road 1042.
3. Station No. 13023, Frio River at State Highway 16.
4. Station No. 12983, San Miguel Creek at State Highway 16.

The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

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

The Respondent's signature affixed to this Agreed Order certifies that the Respondent 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

Because many water bodies in the Nueces River Basin are listed as impaired due to TDS, bacteria, depressed dissolved oxygen, and nitrate, influences on water quality in this area need to be thoroughly studied. This Project will add to the understanding of pollutant loadings in the Nueces River Basin. It will also provide quality-assured data that can be used by TCEQ for pollution reduction efforts. The Project will also increase the available water quality data for use in studies of the ecology of the Nueces River Basin.

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 **Nueces River Authority SEP** and shall mail the contribution with a copy of the Agreed Order to:

Nueces River Authority
Attention: Rocky Freund, Deputy Executive Director
400 Mann Street, Suite 1002
Corpus Christi, Texas 78401

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:

City of Bishop
Agreed Order - Attachment A

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 and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that 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 SEP, 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 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	7-Apr-2014	Screening	14-Apr-2014	EPA Due	
	PCW	29-Apr-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Bishop				
Reg. Ent. Ref. No.	RN101920684				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	48557	No. of Violations	2
Docket No.	2014-0547-MWD-E	Order Type	1660
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** **\$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 **40.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,000**

Notes: Enhancement for one NOV with same/similar violations, one agreed order without a denial of liability, and five months of self-reported effluent violations.

Culpability **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$312**

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

Total EB Amounts: \$16,535
 Approx. Cost of Compliance: \$340,350
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$10,188**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$10,188**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$10,188**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,037**

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 **\$8,151**

Screening Date 14-Apr-2014

Docket No. 2014-0547-MWD-E

PCW

Respondent City of Bishop

Policy Revision 4 (April 2014)

Case ID No. 48557

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920684

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	5	10%
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	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) 40%

>> 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 NOV with same/similar violations, one agreed order without a denial of liability, and five months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 40%

Screening Date 14-Apr-2014

Docket No. 2014-0547-MWD-E

PCW

Respondent City of Bishop

Policy Revision 4 (April 2014)

Case ID No. 48557

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920684

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010427001, Operational Requirements No. 1

Violation Description Failed to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions at all times, as documented during an investigation conducted on February 3, 2014. Specifically, the standby pumps for Lift Station Nos. 1 and 2 were removed and not replaced and the standby pumps for Lift Station Nos. 4, 6 and 7 were non-operational.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Matrix Notes Human health or the environment could be exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5 Number of violation days 70

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

Violation Base Penalty \$6,250

One quarterly event for each lift station is recommended, calculated from the investigation date, February 3, 2014, to the screening date, April 14, 2014.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,267

Violation Final Penalty Total \$8,750

This violation Final Assessed Penalty (adjusted for limits) \$8,750

Economic Benefit Worksheet

Respondent City of Bishop
Case ID No. 48557
Reg. Ent. Reference No. RN101920684
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	Overtime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$170,000	3-Feb-2014	24-Jan-2015	0.97	\$8,267	n/a	\$8,267

Notes for DELAYED costs

Estimated cost to replace the standby pumps at Lift Station Nos. 1 and 2, to repair the pumps at Lift Station Nos. 4, 6, and 7, and to repair/replace the perforated manhole. Date required is the date of the investigation and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$170,000

TOTAL

\$8,267

Screening Date 14-Apr-2014

Docket No. 2014-0547-MWD-E

PCW

Respondent City of Bishop

Policy Revision 4 (April 2014)

Case ID No. 48557

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920684

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0010427001, Monitoring and Reporting Requirements No. 7.a

Violation Description

Failed to notify the TCEQ Regional Office within 24 hours of becoming aware of a noncompliance, as documented during an investigation on February 3, 2014. Specifically, the unauthorized discharge that was discovered on or about December 10, 2013, was not reported until February 5, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

56 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$312

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

Notes

The Respondent achieved compliance by February 5, 2014.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,438

This violation Final Assessed Penalty (adjusted for limits) \$1,438

Economic Benefit Worksheet

Respondent City of Bishop
Case ID No. 48557
Reg. Ent. Reference No. RN101920684
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	3-Feb-2014	5-Feb-2014	0.01	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	11-Dec-2013	5-Feb-2014	0.15	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to properly notify the TCEQ Regional Office within 24 hours of becoming aware of a noncompliance and to update the Facility's operational guidance and conduct employee training to ensure that the TCEQ Regional Office is properly notified within 24 hours of becoming aware of a noncompliance. Date required is the date the notification was due and the investigation date, 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

\$350

TOTAL

\$1

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 CN600248157, RN101920684, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600248157, City of Bishop
Classification: SATISFACTORY **Rating:** 20.13

Regulated Entity: RN101920684, City of Bishop
Classification: SATISFACTORY **Rating:** 28.77

Complexity Points: 7
Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: LOCATED APPROXIMATELY 1.25 MILES SOUTH OF INTERSECTION OF UNITED STATES HIGHWAY 77 AND 6TH STREET, WEST OF UNITED STATES HIGHWAY 77 AND ADJACENT TO CARRETA CREEK IN NUECES COUNTY, TEXAS 78343

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

WASTEWATER PERMIT WQ0010427001

WASTEWATER EPA ID TX0023019

WASTEWATER LICENSING LICENSE WQ0010427001

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

Date Compliance History Report Prepared: April 14, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 14, 2009 to April 14, 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:

- 1 Effective Date: 06/13/2013 ADMINORDER 2012-0082-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:Eff. Limits & Monitoring Req. 1 & 3 PERMIT
Description: Failure to comply with permit effluent limits.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125
30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.1
Rqmt Prov:Monitoring and Reporting Req. 1 PERMIT

Description: Failure to submit effluent monitoring results at the intervals specified in the permit.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov:Sludge Provisions PERMIT

Description: Failure to timely submit sludge annual report for the monitoring period ending July 31, 2011, by September 30

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.5(b)

Rqmt Prov:Monitoring & Reporting Req. no. 1 PERMIT

Description: failed to monitor effluent at the intervals specified in the permit

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 20, 2009	(768840)
Item 2	May 15, 2009	(768841)
Item 3	July 20, 2009	(925302)
Item 4	August 17, 2009	(925303)
Item 5	September 17, 2009	(925304)
Item 6	October 22, 2009	(925305)
Item 7	January 27, 2010	(925308)
Item 8	April 23, 2010	(925299)
Item 9	May 24, 2010	(831438)
Item 10	June 28, 2010	(846444)
Item 11	July 22, 2010	(881696)
Item 12	August 23, 2010	(867034)
Item 13	October 25, 2010	(881697)
Item 14	January 24, 2011	(902492)
Item 15	March 23, 2011	(916528)
Item 16	April 20, 2011	(925300)
Item 17	May 25, 2011	(938210)
Item 18	June 23, 2011	(945589)
Item 19	November 28, 2011	(977736)
Item 20	January 05, 2012	(990789)
Item 21	February 27, 2012	(998161)
Item 22	March 23, 2012	(1003680)
Item 23	April 19, 2012	(1010249)
Item 24	August 16, 2012	(1038126)
Item 25	January 23, 2013	(1079365)
Item 26	April 18, 2013	(1095886)
Item 27	August 13, 2013	(1103410)
Item 28	October 21, 2013	(1135469)
Item 29	November 18, 2013	(1140861)
Item 30	December 18, 2013	(1147329)
Item 31	January 17, 2014	(1153389)

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:	04/30/2013	(1106824)	CN600248157
	Self Report?	YES		Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
		30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		

- 2 Date: 05/31/2013 (1110488) CN600248157
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 06/20/2013 (1087031) CN600248157
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Operational Requirements; No. 1, Pg. 9 PERMIT
 Description: Failed to at all times ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Permit Conditions; No. 2g, Pg. 7 PERMIT
 Description: Failed to prevent the discharge of sewage into or adjacent to waters in the state.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(9)(A)
 Monitor & Report Req.; No. 7a, Pg. 5 PERMIT
 Description: Failed to report any noncompliance which may endanger human health or safety, or the environment to the TCEQ. Report of such information shall be provided orally or by facsimile transmission to the Regional Office within 24 hours of becoming aware of the noncompliance. In addition, a written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 319, SubChapter A 319.7(a)(1)
 Monitor. & Report. Req., No 3c, Pg 5, PERMIT
 Description: Failed to maintain records of monitoring activities to include the date, time and place of sample or measurement; the identity of individual who collected the sample or made the measurement; and date and time of analysis.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Monitor & Report Req., No. 4, Pg. 5 PERMIT
 Description: Failed to include all monitoring results in the calculation and reporting of the values submitted on the approved self-report form.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Reporting Requirement; No. 2.c., Pg. 6 PERMIT
 Description: Failed to report any effluent violation which deviates from the permitted effluent limitation by more than 40% in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 30, SubChapter J 30.350(j)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Other Requirements; No. 1, Pg. 23 PERMIT
 Description: Failed to employ or contract with one or more licensed wastewater treatment facility operators or wastewater system operations companies holding a valid license in accordance with 30 TAC 30, Subchapter J. This Category C facility must be operated by a chief operator or an operator holding a Category C license or higher. The facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher.
- 4 Date: 06/30/2013 (1117374) CN600248157
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
- 5 Date: 07/31/2013 (1125141) CN600248157
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: 30 TAC Chapter 305, SubChapter F 305.125(1)
Failure to meet the limit for one or more permit parameter

6 Date: 08/31/2013 (1129734) CN600248157
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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BISHOP
RN101920684**

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

**AGREED ORDER
DOCKET NO. 2014-0547-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 Bishop (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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 1.25 miles south of the intersection of United States Highway 77 and 6th Street, west of United States Highway 77 and adjacent to Carreta Creek in Nueces County, Texas (the "Facility").
2. The Respondent has discharged sewage 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 April 8, 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 Ten Thousand One Hundred Eighty-Eight Dollars (\$10,188) is assessed by the Commission in settlement of the violations alleged

in Section II ("Allegations"). Two Thousand Thirty-Seven Dollars (\$2,037) 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. Eight Thousand One Hundred Fifty-One Dollars (\$8,151) 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 recognizes that by February 5, 2014, the Respondent implemented the following corrective measures at the Facility:
 - a. Submitted the notification to the TCEQ Regional Office for the unauthorized discharge that occurred on or about December 10, 2013.
 - b. Updated the Facility's operational guidance and conducted employee training to ensure that the TCEQ Regional Office is notified within 24 hours of becoming aware of a noncompliance.
10. 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.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the permit conditions at all times, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010427001, Operational Requirements No. 1, as documented during an investigation conducted on February 3, 2014. Specifically, the standby pumps for Lift

Station Nos. 1 and 2 were removed and not replaced and the standby pumps for Lift Station Nos. 4, 6 and 7 were non-operational.

2. Failed to notify the TCEQ Regional Office within 24 hours of becoming aware of a noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010427001, Monitoring and Reporting Requirements No. 7.a, as documented during an investigation conducted on February 3, 2014. Specifically, the unauthorized discharge that was discovered on or about December 10, 2013, was not reported until February 5, 2014.

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 Bishop, Docket No. 2014-0547-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, Eight Thousand One Hundred Fifty-One Dollars (\$8,151) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, replace the standby pumps at Lift Station Nos. 1 and 2, repair the standby pumps at Lift Station Nos. 4, 6 and 7, and repair/replace the perforated manhole located on South Avenue F between West Main Street and West 5th Street.

- b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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

Paul J. Smith
For the Executive Director

5/29/15
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.

J.M.
Signature

4-9-15
Date

Tom Miller
Name (Printed or typed)
Authorized Representative of
City of Bishop

Mayor
Title

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

Attachment A
Docket Number: 2014-0547-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Bishop
Penalty Amount:	Eight Thousand One Hundred Fifty-One Dollars (\$8,151)
SEP Offset Amount:	Eight Thousand One Hundred Fifty-One Dollars (\$8,151)
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Nueces River Authority
Project Name:	<i>Nueces River Basin Enhanced Water Quality Monitoring</i>
Location of SEP:	Nueces River Basin

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 **Nueces River Authority** for the *Nueces River Basin Enhanced Water Quality Monitoring* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used for sampling and analysis in the Nueces River Basin. The Third-Party Administrator shall use the SEP Offset Amount to pay its contractors to conduct field measurements and laboratory tests for total dissolved solids (“TDS”), sulfate, chloride, arsenic, barium, and strontium. The Third-Party Administrator shall also use the SEP Offset Amount to pay for vehicle and boat fuel necessary for the contractor to reach the monitoring sites. The Third-Party Administrator’s contractor shall measure water quality on a monthly basis at the following four sites:

1. Station No. 12980, Atascosa River at Farm-to-Market Road 99.
2. Station No. 12972, Nueces River at Farm-to-Market Road 1042.
3. Station No. 13023, Frio River at State Highway 16.
4. Station No. 12983, San Miguel Creek at State Highway 16.

The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

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

The Respondent's signature affixed to this Agreed Order certifies that the Respondent 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

Because many water bodies in the Nueces River Basin are listed as impaired due to TDS, bacteria, depressed dissolved oxygen, and nitrate, influences on water quality in this area need to be thoroughly studied. This Project will add to the understanding of pollutant loadings in the Nueces River Basin. It will also provide quality-assured data that can be used by TCEQ for pollution reduction efforts. The Project will also increase the available water quality data for use in studies of the ecology of the Nueces River Basin.

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 **Nueces River Authority SEP** and shall mail the contribution with a copy of the Agreed Order to:

Nueces River Authority
Attention: Rocky Freund, Deputy Executive Director
400 Mann Street, Suite 1002
Corpus Christi, Texas 78401

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:

City of Bishop
Agreed Order - Attachment A

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 and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that 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 SEP, 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.