EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0637-MWD-E **TCEQ ID:** RN101525178 **CASE NO.:** 33262

RESPONDENT NAME: East Central Independent School District

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: East Central High School, approximately 2,300 feet north of the intersection of Sulphur Springs Road and Stuart Road and approximately 600 feet west of Stuart Road, Bexar County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ___ **Yes** _X_ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on September 3, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: Mr. Jim Selby, Assistant Superintendent, East Central Independent School District, 6634 New Sulphur Springs Road, San Antonio, Texas 78263
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** March 22, 2007 **Date of NOE Relating to this Case:** April 2, 2007 (NOE) **Background Facts:** This was a routine records review. Two violations were documented. **WATER** 1) Failure to comply with the permitted effluent limits. See attached table [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13701001, Effluent Limitations and Monitoring Requirement No. 2 and 6]. 2) Failure to submit discharge monitoring reports ("DMR") parameter data. Specifically, the Total Suspended Solids ("TSS") daily loading average in pounds per day ("lbs/dy") data was not included on the DMR for the monitoring period ending August 31, 2006 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13701001, Monitoring and Reporting Requirements].	**Total Assessed:** $1,650 **Total Deferred:** $330 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $1,320 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. On December 31, 2005, implemented procedures to begin testing at peak flow times in accordance with TPDES Permit No. 13701001; b. On January 31, 2006, returned to compliance with the permitted effluent limits; and c. On April 11, 2007, submitted the revised discharge monitoring report ("DMR") to include the Total Suspended Solids ("TSS") daily loading average in pounds per day ("lbs/dy") parameter data for the monitoring period ending August 31, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).

Attachment A
Docket Number: 2007-0637-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**East Central Independent School District**
Payable Penalty Amount:	**One Thousand Three Hundred Twenty Dollars ($1,320)**
SEP Amount:	**One Thousand Three Hundred Twenty Dollars ($1,320)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Audubon Society-Mitchell Lake Project**
Location of SEP:	**Bexar County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP 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 Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to restore the 600-acre upland habitat at the Mitchell Lake Audubon Center and Sanctuary by removing non-native, exotic plant species and re-establishing native grasses, forbs, and woody vegetation. The re-introduction of the native vegetation throughout the uplands will provide maximum benefit for the wildlife of Mitchell Lake.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by restoring native habitat for wildlife.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Marnie Francell, Program Director
Audubon Texas
427 Sterzing Street
Austin, Texas 78704

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP 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 identified in this Agreed Order has not been, and shall not be, included as an 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 2 (September 2002) — *PCW Revision January 9, 2007*

TCEQ

DATES					
Assigned	17-Apr-2007				
PCW	23-Apr-2007	Screening	20-Apr-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	East Central Independent School District		
Reg. Ent. Ref. No.	RN101525178		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33262	No. of Violations	2
Docket No.	2007-0637-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$1,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **60%** Enhancement — *Subtotals 2, 3, & 7* **$660**

Notes: A 60% enhancement is recommeded for having 12 self reported effluent violations within the last five years.

Culpability — No — **0%** Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — **10%** Reduction — *Subtotal 5* **$110**

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

Notes: The Respondent returned to compliance with the permitted effluent limits on January 31, 2006 and submitted the revised DMR on April 11, 2007.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$24
Approx. Cost of Compliance	$2,250

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$1,650**

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount **$1,650**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$1,650**

DEFERRAL — **20%** Reduction — *Adjustment* **-$330**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$1,320**

Screening Date	20-Apr-2007	**Docket No.** 2007-0637-MWD-E	**PCW**
Respondent	East Central Independent School District		*Policy Revision 2 (September 2002)*
Case ID No.	33262		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN101525178		
Media [Statute]	Water Quality		
Enf. Coordinator	Samuel Short		

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	12	60%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 60%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 60% enhancement is recommeded for having 12 self reported effluent violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date	20-Apr-2007	**Docket No.** 2007-0637-MWD-E	**PCW**
Respondent	East Central Independent School District		*Policy Revision 2 (September 2002)*
Case ID No.	33262		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN101525178		
Media [Statute]	Water Quality		
Enf. Coordinator	Samuel Short		

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 13701001, Effluent Limitations and Monitoring Requirement No. 2 and 6

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on March 22, 2007. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: 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 as a result of this violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1

61 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $17

Statutory Limit Test

Violation Final Penalty Total $1,500

This violation Final Assessed Penalty (adjusted for limits) $1,500

Economic Benefit Worksheet

Respondent East Central Independent School District
Case ID No. 33262
Reg. Ent. Reference No. RN101525178
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$2,000	30-Nov-2005	31-Jan-2006	0.2	$17	n/a	$17

Notes for DELAYED costs: The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the compliance date.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $2,000

TOTAL $17

Screening Date 20-Apr-2007 **Docket No.** 2007-0637-MWD-E **PCW**

Respondent East Central Independent School District *Policy Revision 2 (September 2002)*

Case ID No. 33262 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101525178

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 13701001, Monitoring and Reporting Requirements

Violation Description Failed to submit discharge monitoring reports ("DMR") parameter data. Specifically, the Total Suspended Solids ("TSS") daily loading average in pounds per day ("lbs/dy") data was not included on the DMR for the monitoring period ending August 31, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: At least 70% of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1 | 203 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $150

This violation Final Assessed Penalty (adjusted for limits) $150

Economic Benefit Worksheet

Respondent East Central Independent School District
Case ID No. 33262
Reg. Ent. Reference No. RN101525178
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$250	20-Sep-2006	11-Apr-2007	0.6	$7	n/a	$7
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The estimated cost associated with reporting the DMR parameter data. Date required is the date the DMR was due. Final date is the date the revised DMR was submitted.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $250

TOTAL $7

Effluent Violation Table

East Central Independent School District
TPDES Permit No. 13701001 (Outfall 001A)
Docket No. 2007-0637-MWD-E

Permitted Effluent Limits	Monitoring Period End Date	
	11/30/2005	12/31/2005
Total Chlorine Residual monthly maximum 4.0 mg/L	5.0	5.0
Dissolved Oxygen monthly minimum 4.0 mg/L	C	3.2

C = compliant	mg/L = milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator:	CN600788707	East Central Independent School District	Classification: AVERAGE	Rating: 1.19
Regulated Entity:	RN101525178	EAST CENTRAL HIGH SCHOOL	Classification: AVERAGE	Site Rating: 0.56

ID Number(s):			
	WASTEWATER	PERMIT	WQ0013701001
	WASTEWATER	PERMIT	TPDES0074799
	WASTEWATER	PERMIT	TX0074799
	WASTEWATER	PERMIT	WQ0013701001
	WASTEWATER	PERMIT	TPDES0074799
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	12531
	WASTEWATER LICENSING	LICENSE	WQ0013701001

Location: APPROXIMATELY 2300 FT NORTH OF THE INTERSECTION OF SULPHUR SPRINGS ROAD AND STUART ROAD AND APPROXIMATELY 600 FEET WEST OF STUART ROAD

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: April 18, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 18, 2002 to April 18, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Samuel Short Phone: (512) 239-5363

Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	05/14/2002	(200611)
2	06/12/2002	(200614)
3	07/17/2002	(200617)
4	08/19/2002	(200620)
5	09/30/2002	(200623)
6	10/23/2002	(200626)
7	11/19/2002	(200629)
8	12/18/2002	(200632)
9	01/14/2003	(200636)
10	02/14/2003	(200599)
11	03/28/2003	(200603)
12	04/14/2003	(200608)
13	05/23/2003	(313376)
14	06/09/2003	(313377)
15	07/17/2003	(313379)
16	08/26/2003	(313380)
17	09/19/2003	(313381)
18	10/22/2003	(313382)
19	11/17/2003	(313383)
20	12/08/2003	(313384)
21	01/22/2004	(313385)
22	02/05/2004	(313374)

23 03/08/2004 (313375)
24 04/23/2004 (359430)
25 05/11/2004 (359431)
26 06/15/2004 (313378)
27 08/12/2004 (359432)
28 08/12/2004 (359433)
29 09/21/2004 (359434)
30 10/25/2004 (359435)
31 11/18/2004 (385975)
32 01/05/2005 (385976)
33 01/20/2005 (385977)
34 02/15/2005 (385973)
35 03/23/2005 (385974)
36 04/04/2005 (350911)
37 04/18/2005 (423885)
38 05/09/2005 (423886)
39 06/23/2005 (423887)
40 08/17/2005 (444687)
41 09/16/2005 (444689)
42 09/20/2005 (444688)
43 10/09/2005 (475481)
44 11/18/2005 (475482)
45 12/19/2005 (475483)
46 01/18/2006 (475484)
47 02/10/2006 (475479)
48 03/21/2006 (475480)
49 04/20/2006 (502939)
50 05/15/2006 (502940)
51 06/16/2006 (502941)
52 07/21/2006 (525274)
53 08/14/2006 (488726)
54 08/18/2006 (525275)
55 09/21/2006 (525276)
56 04/03/2007 (554758)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 12/31/2002 (200636)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 03/31/2003 (200608)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2003 (313382)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 02/29/2004 (313375)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2004 (359432)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 10/31/2004 (385975)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2005 (385973)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2005 (423886)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 07/31/2005 (444688)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2005 (444689)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 11/30/2005 (475483)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2005 (475484)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
EAST CENTRAL INDEPENDENT	§	
SCHOOL DISTRICT	§	**ENVIRONMENTAL QUALITY**
RN101525178		

AGREED ORDER
DOCKET NO. 2007-0637-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding East Central Independent School District ("East Central") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and East Central appear before the Commission and together stipulate that:

1. East Central owns and operates a wastewater treatment facility located approximately 2,300 feet north of the intersection of Sulphur Springs Road and Stuart Road and approximately 600 feet west of Stuart Road in Bexar County, Texas (the "Facility").

2. East Central has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and East Central agree that the Commission has jurisdiction to enter this Agreed Order, and that East Central is subject to the Commission's jurisdiction.

4. East Central received notice of the violations alleged in Section II ("Allegations") on or about April 7, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by East Central of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Six Hundred Fifty Dollars ($1,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Three Hundred Thirty Dollars ($330) is deferred contingent upon East Central'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 East Central fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require East Central to pay all or part of the deferred penalty. One Thousand Three Hundred Twenty Dollars ($1,320) shall be conditionally offset by East Central's completion of a Supplemental Environmental Project

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 of the TCEQ and East Central have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that East Central has implemented the following corrective measures at the Facility:

   a. On December 31, 2005, implemented procedures to begin testing at peak flow times in accordance with TPDES Permit No. 13701001;

   b. On January 31, 2006, returned to compliance with the permitted effluent limits; and

   c. On April 11, 2007, submitted the revised discharge monitoring report ("DMR") to include the Total Suspended Solids ("TSS") daily loading average in pounds per day ("lbs/dy") parameter data for the monitoring period ending August 31, 2006.

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 East Central 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, East Central is alleged to have:

1. Failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13701001, Effluent Limitations and Monitoring Requirement No. 2 and 6, as documented during a record review conducted on March 22, 2007, as indicated in the table below.

Effluent Violation Table East Central Independent School District TPDES Permit No. 13701001 (Outfall 001A)		
Permitted Effluent Limits	Monitoring Period End Date	
	11/30/2005	12/31/2005
Total Chlorine Residual monthly maximum 4.0 mg/L	5.0	5.0
Dissolved Oxygen monthly minimum 4.0 mg/L	C	3.2

C = compliant	mg/L = milligrams per liter

2. Failed to submit DMR parameter data. Specifically, the TSS daily loading average in lbs/dy data was not included on the DMR for the monitoring period ending August 31, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13701001, Monitoring and Reporting Requirements, as documented during a record review conducted on March 22, 2007.

III. DENIALS

East Central generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that East Central pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and East Central'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: East Central Independent School District, Docket No. 2007-0637-MWD-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. East Central shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One

Thousand Three Hundred Twenty Dollars ($1,320) of the assessed administrative penalty shall be offset with the condition that East Central implement the SEP defined in Attachment A, incorporated herein by reference. East Central'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. If East Central 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, East Central's failure to comply is not a violation of this Agreed Order. East Central shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. East Central shall notify the Executive Director within seven days after East Central becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. 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 East Central shall be made in writing to the Executive Director. Extensions are not effective until East Central receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. The provisions of this Agreed Order shall apply to and be binding upon East Central. East Central 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.

6. This Agreed Order, issued by the Commission, shall not be admissible against East Central 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.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to East Central, or three days after the date on which the Commission mails notice of the Order to East Central, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

John Sadler
For the Executive Director

8/27/07
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.

Jim Selby
Signature

6/20/07
Date

Jim Selby
Name (Printed or typed)
Authorized Representative of
East Central Independent School District

Asst Superintendent for Business
Title

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

Attachment A
Docket Number: 2007-0637-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**East Central Independent School District**
Payable Penalty Amount:	**One Thousand Three Hundred Twenty Dollars ($1,320)**
SEP Amount:	**One Thousand Three Hundred Twenty Dollars ($1,320)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Audubon Society-Mitchell Lake Project**
Location of SEP:	**Bexar County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP 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 Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to restore the 600-acre upland habitat at the Mitchell Lake Audubon Center and Sanctuary by removing non-native, exotic plant species and re-establishing native grasses, forbs, and woody vegetation. The re-introduction of the native vegetation throughout the uplands will provide maximum benefit for the wildlife of Mitchell Lake.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by restoring native habitat for wildlife.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient 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 Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Marnie Francell, Program Director
Audubon Texas
427 Sterzing Street
Austin, Texas 78704

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP 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 identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.