

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-0786-MWD-E **TCEQ ID:** RN102185352 **CASE NO.:** 35859  
**RESPONDENT NAME:** East Cedar Creek Fresh Water Supply District

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> East Cedar Creek Fresh Supply North WWTP, located at the northeast side of Cedar Creek Reservoir, approximately 1,500 feet northwest of the intersection of Hammer Street and Welch Lane, and approximately 1.2 miles southwest of the intersection of State Highway 334 and State Highway 198, Gun Barrel City, Henderson County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 20, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. William Goheen, General Manager, East Cedar Creek Fresh Water Supply District, P.O. Box 309, Mabank, Texas 75147  Mr. David O. Burch, Board President, East Cedar Creek Fresh Water Supply District, P.O. Box 309, Mabank, Texas 75147  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 25, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 28, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limitations for total phosphorus, dissolved oxygen, ammonia nitrogen, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011858001, Interim I &amp; II Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p><b>Total Assessed:</b> \$5,370</p> <p><b>Total Deferred:</b> \$1,074  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$4,296</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011858001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision.</p>

Additional ID No(s): WQ0011858001

Attachment A

Docket Number: 2008-0786-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** East Cedar Creek Fresh Water Supply District  
**Payable Penalty Amount:** Four Thousand Two Hundred Ninety-Six Dollars (\$4,296)  
**SEP Amount:** Four Thousand Two Hundred Ninety-Six Dollars (\$4,296)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance  
**Location of SEP:** Henderson 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. Third-Party Recipient shall use SEP Funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. Third-Party recipient shall use a consistent and documented system for determining eligible participants.

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 protecting water sources for drinking, recreation, and wildlife from contamination.

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:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**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 April 29, 2008

<b>DATES</b>	<b>Assigned</b>	5-May-2008	<b>Screening</b>	8-May-2008	<b>EPA Due</b>	
	<b>PCW</b>	8-May-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	East Cedar Creek Fresh Water Supply District
<b>Reg. Ent. Ref. No.</b>	RN102185352
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35859	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-0786-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Steve Villatoro
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$3,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	84.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,520</b>
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**Notes**  
An enhancement is recommended as a result of having 11 self reported NOV's, 2 not same or similar NOV's and one Agreed Order without a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0.0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes**  
The Respondent does not meet the good faith criteria.

	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$351	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$10,000		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$5,520</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-2.7%	<b>Adjustment</b>	<b>-\$150</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**  
Recommend reduction in the penalty so that monthly self-reported violations do not overly impact the penalty amount.

<b>Final Penalty Amount</b>	<b>\$5,370</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$5,370</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$1,074</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**  
Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$4,296</b>
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Screening Date 8-May-2008

Docket No. 2008-0786-MWD-E

PCW

Respondent East Cedar Creek Fresh Water Supply District

Policy Revision 2 (September 2002)

Case ID No. 35859

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102185352

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

### 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)	11	55%
	Other written NOVs	2	4%
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	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 (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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 84%

>> 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

An enhancement is recommended as a result of having 11 self reported NOV's, 2 not same or similar NOV's and one Agreed Order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 84%

<b>Screening Date</b> 8-May-2008	<b>Docket No.</b> 2008-0786-MWD-E	<b>PCW</b>
<b>Respondent</b> East Cedar Creek Fresh Water Supply District	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35859	<i>PCW Revision April 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102185352		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Steve Villatoro		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	Texas Water Code § 26.121(a), Texas Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011858001, Interim I & II Effluent Limitations and Monitoring Requirements Nos. 1 and 6	
<b>Violation Description</b>	Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data and shown in the attached table.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

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

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="10%"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	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**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

Three quarterly events are recommended

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$351"/>	Violation Final Penalty Total <input type="text" value="\$5,370"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,370"/>	

## Economic Benefit Worksheet

**Respondent** East Cedar Creek Fresh Water Supply District  
**Case ID No.** 35859  
**Reg. Ent. Reference No.** RN102185352  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	1-May-2008	31-Oct-2008	0.50	\$17	\$334	\$351
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to conduct engineering study to determine cause of non-compliance and to implement corrective actions. Date required is the first day of non-compliance. Final date is the expected date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$351

**EFFLUENT VIOLATION TABLE**

East Cedar Creek FWSD

TPDES Permit No. WQ0011858001

Docket No. 2008-0786-MWD-E

Months	Total Phosphorus Daily Avg. Loading	Total Phosphorus Daily Avg. Conc.	Total Phosphorus Daily Max. Conc.	Dissolved Oxygen Min. Conc.	Ammonia Nitrogen Daily Avg. Conc.	Flow In Conduit or Through Plant Daily Max.
	Limit = 5.2 lbs/day	Limit = 1 mg/L	Limit = 4 mg/L	Limit = 6.0 mg/L	Limit = 2.0 mg/L	Limit = 0.626 MGD
<b>Outfall 001A</b>						
5/31/2007	c	c	c	c	c	0.630
6/30/2007	c	c	c	c	c	0.656
7/31/2007	c	c	c	c	c	0.634
<b>Outfall 001B</b>						
10/31/2007	17.16	4.26	4.4	4.72	c	c
11/30/2007	15.14	4.45	5.51	c	c	c
12/31/2007	c	c	c	c	2.1	c

conc. = concentration

avg. = average

max. = maximum

min. = minimum

lbs/day = pounds per day

mg/L = milligrams per liter

MGD = Million Gallons per Day



# Compliance History

Customer/Respondent/Owner-Operator:	CN600629935	EAST CEDAR CREEK FWSD	Classification: AVERAGE	Rating: 1.39
Regulated Entity:	RN102185352	EAST CEDAR CREEK FRESH WATER SUPPLY NORTH WWTP	Classification: AVERAGE	Site Rating: 3.45
ID Number(s):	WASTEWATER	PERMIT		WQ0011858001
	WASTEWATER	PERMIT		TPDES0074861
	WASTEWATER	PERMIT		TX0074861
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		HM0132G
	WASTEWATER LICENSING	LICENSE		WQ0011858001
Location:	Northeast side of Cedar Creek Reservoir within the City of Gun Barrel City, approximately 1,500 feet northwest of the intersection of Hammer Street and Welch Lane, and approximately 1.2 miles southwest of the intersection of State Highway 334 and State Highway 198 in Henderson County, Texas			Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	May 07, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 05, 2003 to May 05, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	<u>Steve Villatoro</u>	Phone:	<u>512-260-7158</u>	

## 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?   | <u>N/A</u> |
| 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.
- |  |                            |
|--|----------------------------|
| Effective Date: 07/15/2005   | ADMINORDER 2003-1420-MWD-E |
| Classification: Moderate   |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)<br>30 TAC Chapter 317 317.4(k)(6)   |                            |
| Rqmt Prov: Pg 7 ORP 2g PERMIT  |                            |
| Description: Failure to operate the facility in a manner to prevent the discharge of wastewater into or adjacent to waters in the State and to maintain a freeboard of not less than two feet on the WW equalization pond. |                            |
| Classification: Moderate   |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: Pg 7 Cond. 2g PERMIT  |                            |
| Description: Failure to operate facility in a manner to prevent discharge of WWTP sludge through the permitted WW discharge outfall.   |                            |
| Classification: Moderate   |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)<br>TWC Chapter 26 26.121(a)  |                            |
| Rqmt Prov: Effluent Limits and Monit. Req. No. 1 PERMIT  |                            |

Description: Failed to prevent the discharge of wastewater that exceeded Total Suspended Solids (TSS), Biochemical Oxygen Demand (BOD5), pH, Chlorine Residual (Cl), and Dissolved Oxygen (DO) effluent limits.

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	05/12/2003	(249496)
2	05/12/2003	(313401)
3	06/16/2003	(313402)
4	07/15/2003	(313403)
5	08/15/2003	(313404)
6	09/22/2003	(313405)
7	10/23/2003	(313406)
8	11/24/2003	(313407)
9	12/17/2003	(313408)
10	01/12/2004	(258218)
11	01/23/2004	(313409)
12	02/24/2004	(313398)
13	03/18/2004	(313399)
14	04/22/2004	(313400)
15	05/21/2004	(359442)
16	06/21/2004	(359443)
17	08/06/2004	(359444)
18	08/06/2004	(359446)
19	08/19/2004	(290414)
20	08/26/2004	(359445)
21	09/15/2004	(359447)
22	10/26/2004	(359448)
23	12/01/2004	(385983)
24	12/21/2004	(444700)
25	01/14/2005	(385984)
26	03/07/2005	(444695)
27	04/11/2005	(385982)
28	05/12/2005	(423893)
29	05/12/2005	(444696)
30	07/11/2005	(444697)
31	08/05/2005	(444698)
32	09/19/2005	(444699)
33	10/13/2005	(444694)
34	11/14/2005	(475493)
35	12/27/2005	(475494)
36	01/20/2006	(475495)
37	02/10/2006	(475491)
38	03/16/2006	(475492)
39	05/11/2006	(502944)
40	06/19/2006	(502945)
41	07/11/2006	(525279)
42	07/27/2006	(488963)
43	08/11/2006	(525280)
44	09/15/2006	(525281)
45	10/05/2006	(525282)
46	11/10/2006	(584842)
47	12/13/2006	(584843)
48	01/12/2007	(584844)
49	02/08/2007	(539754)
50	02/14/2007	(584835)
51	03/07/2007	(584836)
52	04/09/2007	(584837)
53	05/03/2007	(584838)

54 06/13/2007 (584839)  
 55 07/11/2007 (584840)  
 56 08/08/2007 (584841)  
 57 09/17/2007 (604359)  
 58 10/09/2007 (604360)  
 59 01/11/2008 (623387)  
 60 01/11/2008 (623388)  
 61 01/11/2008 (623389)  
 62 02/07/2008 (617219)  
 63 05/01/2008 (640087)

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

Date	05/31/2003	(313402)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/31/2003	(313404)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	08/31/2003	(313405)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/30/2003	(313406)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2005	(475495)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/21/2006	(482685)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)			
Description:	Failure to perform an annual inspection on this RPZ unit.			
Date	07/26/2006	(488963)		
Self Report?	NO		Classification	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8) 30 TAC Chapter 317 317.7(i)			
Description:	Failure to perform an annual inspection on this RPZ unit.			
Date	05/31/2007	(584839)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	06/30/2007	(584840)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	07/31/2007	(584841)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	10/31/2007	(623387)		
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  
Date 11/30/2007 (623388)  
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  
Date 12/31/2007 (623389)  
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  
EAST CEDAR CREEK FRESH  
WATER SUPPLY DISTRICT  
RN102185352

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-0786-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 Cedar Creek Fresh Water Supply District ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant at the northeast side of Cedar Creek Reservoir, approximately 1,500 feet northwest of the intersection of Hammer Street and Welch Lane, and approximately 1.2 miles southwest of the intersection of State Highway 334 and State Highway 198, Gun Barrel City, in Henderson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission 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 or about May 3, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Five Thousand Three Hundred Seventy Dollars (\$5,370) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Seventy-Four Dollars (\$1,074) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Two Hundred Ninety-Six Dollars (\$4,296) 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 of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011858001, Interim I & II Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on March 25, 2008 and shown in the following table:



EFFLUENT VIOLATION TABLE						
Months	Total Phosphorus Daily Avg. Loading	Total Phosphorus Daily Avg. Conc.	Total Phosphorus Daily Max. Conc.	Dissolved Oxygen Min. Conc.	Ammonia Nitrogen Daily Avg. Conc.	Flow, In Conduit or Through Plant Daily Max.
	Limit = 5.2 lbs/day	Limit = 1 mg/L	Limit = 4 mg/L	Limit = 6.0 mg/L	Limit = 2.0 mg/L	Limit = 0.626 MGD
<b>Outfall 001A</b>						
5/31/2007	c	c	c	c	c	0.630
6/30/2007	c	c	c	c	c	0.656
7/31/2007	c	c	c	c	c	0.634
<b>Outfall 001B</b>						
10/31/2007	17.16	4.26	4.4	4.72	c	c
11/30/2007	15.14	4.45	5.51	c	c	c
12/31/2007	c	c	c	c	2.1	c

conc. = concentration      min. = minimum      max. = maximum      avg. = average  
 lbs/day = pounds per day      mg/L = milligrams per liter      MGD = Million Gallons per Day

### 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: East Cedar Creek Fresh Water Supply District, Docket No. 2008-0786-MWS-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. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I Paragraph 6 above, Four Thousand Two Hundred Ninety-Six



Dollars (\$4,296) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. 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 furthered ordered that, within 60 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011858001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

With a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days



after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This 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.
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. 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 S. Sullivan  
For the Executive Director

10/2/2008  
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.

David O. Burch  
Signature

8/12/08  
Date

David O. Burch  
Name (Printed or typed)  
Authorized Representative of  
East Cedar Creek Fresh Water Supply District

Board President  
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: 2008-0786-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** East Cedar Creek Fresh Water Supply District

**Payable Penalty Amount:** Four Thousand Two Hundred Ninety-Six Dollars (\$4,296)

**SEP Amount:** Four Thousand Two Hundred Ninety-Six Dollars (\$4,296)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance

**Location of SEP:** Henderson 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. Third-Party Recipient shall use SEP Funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. Third-Party recipient shall use a consistent and documented system for determining eligible participants.

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 protecting water sources for drinking, recreation, and wildlife from contamination.

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:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**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.

