

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-0902-MWD-E TCEQ ID: RN102076296 CASE NO.: 35988**

**RESPONDENT NAME: Texas Department of Transportation**

<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> IH 35E Rest Area N Bound, located along and within the right-of-way of Interstate Highway 35 East, at a point approximately 1.4 miles north of Farm-to-Market Road 329, Ellis County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" 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 November 17, 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. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Toribio Garza, Assistant Division Director, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701                  Mr. Zane L. Webb, P.E., Director, Maintenance Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701  <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> April 23, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 19, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permitted limits for biochemical oxygen demand, pH, total suspended solids, and total chlorine residual [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11959001, Interim Limitations and Monitoring Requirements Nos. 1 and 3 and Final Effluent Limitations and Monitoring Requirement Nos. 1, 2, and 6].</p> <p>2) Failure to submit the discharge monitoring report ("DMR") for the reporting period ending May 31, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 11959001, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failure to submit a complete and accurate DMR. Specifically, the DMR parameter data total ammonia nitrogen single grab maximum was not timely submitted for the monitoring period ending January 31, 2007 [30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. 11959001, Monitoring and Reporting Requirements No. 1].</p> <p>4) Failure to pay fees and associated late fees for TCEQ Financial Account Nos. 0021066A, 0021892A, 0021892U, 0021683A, 0021893A, 0902152, 90270108, 90020008, 92380022,</p>	<p><b>Total Assessed:</b> \$10,345</p> <p><b>Total Deferred:</b> \$2,069  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$8,276</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the January 31, 2007 revised DMR and the May 31, 2007 DMR on June 5, 2008.</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:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest; and</p> <p>b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 11959001 and Ordering Provision 2.a., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation to demonstrate compliance.</p>

<p>91860017, 91860027, 91810148, 91810048, 90480017, 90860109, 90240004, 90340051, 91960008, 92180006, 92180005, 90700078, 91490026, 91490027, 90650019, 91750026, 92360061, 90550008, 91140026, 92400033, 91680007, and 90550009 for fiscal year 2008 [30 TEX. ADMIN. CODE §§ 290.51(a)(3), 334.128(a), and 334.22(a) and TEX. WATER CODE § 5.702].</p>		
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Additional ID No(s): TPDES Permit No. 11959-001



**Attachment A**  
**Docket Number: 2008-0902-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Texas Department of Transportation  
**Payable Penalty Amount:** Eight Thousand Two Hundred Seventy-Six Dollars (\$8,276)  
**SEP Amount:** Eight Thousand Two Hundred Seventy-Six Dollars (\$8,276)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance  
**Location of SEP:** Ellis 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, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used 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.

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 from failing treatment systems

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 June 12, 2008

<b>DATES</b>	<b>Assigned</b>	26-May-2008	<b>Screening</b>	2-Jun-2008	<b>EPA Due</b>	
	<b>PCW</b>	18-Jun-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Texas Department of Transportation
<b>Reg. Ent. Ref. No.</b>	RN102076296
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35988	<b>No. of Violations</b>	4
<b>Docket No.</b>	2008-0902-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Samuel Short
		<b>EC's Team</b>	Enforcement Team 3
<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>\$5,100</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>	135.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$6,885</b>
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**Notes**  
An enhancement is recommended for having 21 NOVs for self-reported effluent data, two NOVs for the same or similar violations, and one Agreed Order with denial within the last five years.

<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 Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$110</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$569
Approx. Cost of Compliance	\$6,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$11,875</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-12.9%	<b>Adjustment</b>	<b>-\$1,530</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

<b>Final Penalty Amount</b>	<b>\$10,345</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$10,345</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$2,069</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>\$8,276</b>
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<b>Screening Date</b>	2-Jun-2008	<b>Docket No.</b>	2008-0902-MWD-E	<b>PCW</b>
<b>Respondent</b>	Texas Department of Transportation	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	35988	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN102076296			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	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 <i>(number of NOVs meeting criteria)</i>	23	115%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 135%

**>> Repeat Violator (Subtotal 3)**

No	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Person Classification (Subtotal 7)**

Average Performer	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	An enhancement is recommended for having 21 NOVs for self-reported effluent data, two NOVs for the same or similar violations, and one Agreed Order with denial within the last five years.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 135%

<b>Screening Date</b> 2-Jun-2008	<b>Docket No.</b> 2008-0902-MWD-E	<b>PCW</b>	
<b>Respondent</b> Texas Department of Transportation	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 35988	<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102076296			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Samuel Short			
<b>Violation Number</b>	1		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11959001, Interim Limitations and Monitoring Requirements Nos. 1 and 3 and Final Effluent Limitations and Monitoring Requirement Nos. 1, 2, and 6		
<b>Violation Description</b>	Failed to comply with permitted limits as documented during a record review conducted on December 12, 2008. See attached table.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
	Actual	Potential	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	10%
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent
			0%
<b>Matrix Notes</b>	A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, total suspended solids ("TSS"), and ammonia nitrogen ("NH3-H") values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
Number of Violation Events		4	303
		Number of violation days	
mark only one with an x	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
		\$4,000	
Four quarterly events are recommended.			
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>		\$4,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$513	<b>Violation Final Penalty Total</b>	\$8,189
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$8,189

### Economic Benefit Worksheet

**Respondent:** Texas Department of Transportation  
**Case ID No.:** 35988  
**Reg. Ent. Reference No.:** RN102076296  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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)	\$5,000	31-Jan-2007	18-Feb-2009	2.05	\$513	n/a	\$513

**Notes for DELAYED costs**

The estimated cost to determine the cause of the exceedances and to develop and implement procedures to prevent future exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.

**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

\$5,000

**TOTAL**

\$513

<b>Screening Date</b> 2-Jun-2008	<b>Docket No.</b> 2008-0902-MWD-E	<b>PCW</b>									
<b>Respondent</b> Texas Department of Transportation	<i>Policy Revision 2 (September 2002)</i>										
<b>Case ID No.</b> 35988	<i>PCW Revision June 12, 2008</i>										
<b>Reg. Ent. Reference No.</b> RN102076296											
<b>Media [Statute]</b> Water Quality											
<b>Enf. Coordinator</b> Samuel Short											
<b>Violation Number</b> 2											
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(17), TPDES Permit No. 11959001, Monitoring and Reporting Requirements No. 1										
<b>Violation Description</b>	Failed to submit the discharge monitoring report ("DMR") for the reporting period ending May 31, 2007.										
<b>Base Penalty</b>		\$10,000									
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>											
OR	<b>Release</b>	<b>Harm</b>									
		Major    Moderate    Minor									
	Actual	<table border="1" style="display: inline-table;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>				<b>Percent</b> <input type="text" value="0%"/>					
	Potential	<table border="1" style="display: inline-table;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>									
<b>&gt;&gt; Programmatic Matrix</b>											
	Falsification	Major    Moderate    Minor									
	<table border="1" style="display: inline-table;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px; text-align: center;">x</td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>		x			<table border="1" style="display: inline-table;"><tr><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td><td style="width: 50px; height: 15px;"></td></tr></table>					<b>Percent</b> <input type="text" value="10%"/>
	x										
<b>Matrix Notes</b>	100% of the rule requirement was not met.										
<b>Adjustment</b>		\$9,000									
		\$1,000									
<b>Violation Events</b>											
	<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="31"/>	<b>Number of violation days</b>								
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>								
	monthly	<input type="text"/>									
	quarterly	<input type="text"/>									
	semiannual	<input type="text"/>									
	annual	<input type="text"/>									
single event	<input type="text" value="x"/>										
One single event is recommended.											
<b>Good Faith Efforts to Comply</b>		<b>10.0% Reduction</b>	<b>\$100</b>								
	Before NOV	NOV to EDPRP/Settlement Offer									
Extraordinary	<input type="text"/>	<input type="text"/>									
Ordinary	<input type="text"/>	x									
N/A	<input type="text"/>	(mark with x)									
<b>Notes</b>	The Respondent submitted the May 31, 2007 DMR on June 5, 2008.										
<b>Violation Subtotal</b>		\$900									
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>									
<b>Estimated EB Amount</b>	<input type="text" value="\$24"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,960"/>								
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$1,960"/>									

### Economic Benefit Worksheet

**Respondent:** Texas Department of Transportation  
**Case ID No.:** 35988  
**Reg. Ent. Reference No.:** RN102076296  
**Media:** Water Quality  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

#### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$500	20-Jun-2007	5-Jun-2008	0.96	\$24	n/a	\$24
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**

The estimated cost to submit complete and accurate DMRs. Date required is the date the complete DMR was due and the final date is the date the DMR was submitted.

#### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$500

**TOTAL** \$24

<b>Screening Date</b> 2-Jun-2008		<b>Docket No.</b> 2008-0902-MWD-E		<b>PCW</b>	
<b>Respondent</b> Texas Department of Transportation			<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 35988			<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN102076296					
<b>Media [Statute]</b> Water Quality					
<b>Enf. Coordinator</b> Samuel Short					
<b>Violation Number</b>		3			
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 305.125(17), TPDES Permit No. 11959001, Monitoring and Reporting Requirements No. 1			
<b>Violation Description</b>		Failed to submit a complete and accurate DMR. Specifically, the DMR parameter data Total Ammonia Nitrogen single grab maximum was not timely submitted for the monitoring period ending January 31, 2007.			
<b>Base Penalty</b>				\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>Percent</b>				0%	
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
<b>Percent</b>				1%	
<b>Matrix Notes</b>		At least 70% of the rule requirement was met.			
<b>Adjustment</b>				\$9,900	
<b>\$100</b>					
<b>Violation Events</b>					
<b>Number of Violation Events</b>		1		<b>Number of violation days</b>	
		31			
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="checkbox"/>			
<b>Violation Base Penalty</b>				\$100	
One single event is recommended.					
<b>Good Faith Efforts to Comply</b>		<b>10.0%</b> Reduction		<b>\$10</b>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary		<input type="text"/>			
Ordinary		<input checked="" type="checkbox"/>			
N/A		<input type="text"/> (mark with x)			
<b>Notes</b>		The Respondent submitted the January 31, 2007 on June 5, 2008.			
<b>Violation Subtotal</b>				\$90	
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
<b>Estimated EB Amount</b>		\$32		<b>Violation Final Penalty Total</b>	
				\$196	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$196	

### Economic Benefit Worksheet

**Respondent:** Texas Department of Transportation  
**Case ID No.:** 35988  
**Reg. Ent. Reference No.:** RN102076296  
**Media:** Water Quality  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

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

#### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	20-Feb-2007	5-Jun-2008	1.29	\$32	n/a	\$32
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

The estimated cost to submit complete and accurate DMRs. Date required is the date the complete DMR was due and the final date is the date that the revised DMR was submitted.

#### 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 \$500

**TOTAL** \$32

<b>Screening Date</b> 2-Jun-2008	<b>Docket No.</b> 2008-0902-MWD-E	<b>PCW</b>
<b>Respondent</b> Texas Department of Transportation	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35988	<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN102076296		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Samuel Short		

<b>Violation Number</b>	4
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.51(a)(3), 334.128(a), and 334.22(a) and Tex. Water Code § 5.702

<b>Violation Description</b>	Failed to pay fees and associated late fees for TCEQ Financial Account Nos. 0021066A, 0021892A, 0021892U, 0021683A, 0021893A, 0902152, 90270108, 90020008, 92380022, 91860017, 91860027, 91810148, 91810048, 90480017, 90860109, 90240004, 90340051, 91960008, 92180006, 92180005, 90700078, 91490026, 91490027, 90650019, 91750026, 92360061, 90550008, 91140026, 92400033, 91680007, and 90550009 for fiscal year 2008
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<b>Base Penalty</b>	\$10,000
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**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>				
		Major	Moderate	Minor	
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>

**>> Programmatic Matrix**

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

<b>Matrix Notes</b>	N/A
---------------------	-----

<b>Adjustment</b>	\$10,000
-------------------	----------

	\$0
--	-----

**Violation Events**

<b>Number of Violation Events</b>	<input type="text"/>	<b>Number of violation days</b>	<input type="text"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>	\$0
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

**Good Faith Efforts to Comply** 0.0% Reduction

	Before NOV	NOV to EDRP/ Settlement Offer	
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>	
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>	
<b>N/A</b>	x	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		

<b>Violation Subtotal</b>	\$0
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**Economic Benefit (EB) for this violation** **Statutory Limit Test**

<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b>	\$0
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$0

### Economic Benefit Worksheet

**Respondent** Texas Department of Transportation  
**Case ID No.** 35988  
**Reg. Ent. Reference No.** RN102076296  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

#### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

#### 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

\$0

**TOTAL**

\$0





## Compliance History

Customer/Respondent/Owner-Operator:	CN600803456	Texas Department of Transportation	Classification: AVERAGE	Rating: 3.26
Regulated Entity:	RN102076296	IH35E REST AREA N BOUND	Classification: AVERAGE	Site Rating: 2.07
ID Number(s):	WASTEWATER	PERMIT		WQ0011959001
	WASTEWATER	PERMIT		TPDES0075191
	WASTEWATER	PERMIT		TX0075191
Location:	LOCATED ALONG AND WITHIN THE RIGHT-OF-WAY OF INTERSTATE HIGHWAY 35 EAST, AT A POINT APPROXIMATELY 1.4 MILES NORTH OF FARM-TO-MARKET ROAD 329 ELLIS COUNTY, TEXAS			Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	May 28, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 28, 2003 to May 28, 2008			
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? | No  |
| 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.

Effective Date: 08/20/2005	ADMINORDER 2003-1370-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121	
30 TAC Chapter 305, SubChapter F 305.125(1)	

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with the permit limit for Total Suspended Solids daily average (mg/l) at Outfall 001A for the monitoring periods ending 10/31/2001 and 01/31/2002. These violations meet referral criteria. Other violation(s) of permit effluent limits as listed in the violation report attached to the investigation report

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  | 12/16/2003 | (313518) |
| 2  | 12/16/2003 | (313519) |
| 3  | 01/20/2004 | (313521) |
| 4  | 02/23/2004 | (313515) |
| 5  | 03/22/2004 | (313516) |
| 6  | 04/19/2004 | (313517) |
| 7  | 04/20/2004 | (267548) |
| 8  | 05/10/2004 | (359509) |
| 9  | 05/20/2004 | (359505) |
| 10 | 05/20/2004 | (359506) |
| 11 | 05/20/2004 | (359507) |
| 12 | 05/20/2004 | (359508) |
| 13 | 05/20/2004 | (359510) |
| 14 | 05/20/2004 | (359514) |
| 15 | 05/20/2004 | (359516) |
| 16 | 05/20/2004 | (359518) |
| 17 | 05/20/2004 | (359519) |
| 18 | 05/27/2004 | (273713) |
| 19 | 06/23/2004 | (359511) |
| 20 | 07/19/2004 | (359512) |
| 21 | 09/22/2004 | (359515) |

22	10/21/2004	(359513)
23	10/21/2004	(359517)
24	11/22/2004	(386023)
25	12/20/2004	(386024)
26	01/26/2005	(386025)
27	03/14/2005	(386022)
28	03/14/2005	(386021)
29	04/25/2005	(423923)
30	05/23/2005	(423924)
31	06/17/2005	(423925)
32	07/18/2005	(444725)
33	08/19/2005	(444726)
34	09/15/2005	(444727)
35	10/09/2005	(475546)
36	11/21/2005	(475547)
37	12/15/2005	(475548)
38	01/17/2006	(475549)
39	02/21/2006	(475545)
40	03/20/2006	(475544)
41	04/20/2006	(502971)
42	06/22/2006	(502972)
43	07/28/2006	(525308)
44	09/20/2006	(525309)
45	09/20/2006	(525310)
46	11/27/2006	(584920)
47	12/21/2006	(584921)
48	01/05/2007	(584922)
49	02/21/2007	(584915)
50	03/22/2007	(584916)
51	04/23/2007	(584917)
52	05/23/2007	(554760)
53	05/24/2007	(584918)
54	05/25/2007	(584914)
55	05/25/2007	(584919)
56	06/26/2007	(564835)
57	08/02/2007	(604382)
58	08/28/2007	(604383)
59	09/21/2007	(604384)
60	10/22/2007	(623412)
61	12/05/2007	(623413)
62	01/07/2008	(674743)
63	01/24/2008	(674744)
64	05/20/2008	(653927)

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

Date:	07/31/2003	(313519)		
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:	12/31/2003	(313521)		
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:	01/31/2004	(313515)		
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:	04/20/2004	(267548)		
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C)			
Description:	Failure to submit ASR			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)			
Description:	Failure to maintain records			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a)			
Description:	Laboratory records were not available for review during the investigation			
Date:	03/31/2005	(423923)		
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:	05/31/2005 (423925)		
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:	01/31/2006 (584914)		
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:	03/31/2006 (502971)		
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:	04/30/2006 (475545)		
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:	11/30/2006 (584921)		
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:	12/31/2006 (584922)		
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:	01/31/2007 (584915)		
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:	02/28/2007 (584916)		
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:	03/31/2007 (584917)		
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:	04/30/2007 (584918)		
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:	05/25/2007 (554760)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(5)		
Description:	Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C)		
Rqmt Prov:	PERMIT Sludge Provisions, Section III		
Description:	Failure to submit the annual sludge reports for 2005 and 2006.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.6(b)(3)		
Rqmt Prov:	PERMIT Effluent Limitations and Monitoring Req.		
Description:	Failure to comply with the 20 minute disinfection detention time.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		

Rqmt Prov: PERMIT Monitoring and Reporting Requirements  
 Description: Failure to provide a means of measuring the effluent flow.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Effluent Limitations and Monitoring Req.  
 Description: Failure to maintain compliance with the permitted effluent limits for TSS and pH.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Monitoring and Reporting Requirements  
 Description: Failure to provide notification of effluent permit limit violations.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Final Effluent Limitations  
 Description: Failure to maintain compliance with permitted effluent limits.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Other Requirements  
 Description: Failure to achieve compliance with final permitted effluent limitations in accordance with the schedule in the permit.

Date: 05/31/2007  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: TWC Chapter 26 26.121(a)  
 Failure to meet the limit for one or more permit parameter  
 Date: 06/30/2007 (604382)  
 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: 08/31/2007 (604384)  
 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: 09/30/2007 (623412)  
 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: 10/31/2007 (623413)  
 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 (674743)  
 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 (674744)  
 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  
TEXAS DEPARTMENT OF  
TRANSPORTATION  
RN102076296**

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

## **AGREED ORDER DOCKET NO. 2008-0902-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 Texas Department of Transportation ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 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 facility located along and within the right-of-way of Interstate Highway 35 East, at a point approximately 1.4 miles north of Farm-to-Market Road 329 in Ellis 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 24, 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 Ten Thousand Three Hundred Forty-Five Dollars (\$10,345) is assessed by the Commission in settlement of the violations alleged in Section II



("Allegations"). Two Thousand Sixty-Nine Dollars (\$2,069) 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 Two Hundred Seventy-Six Dollars (\$8,276) shall be conditionally offset by the Respondent'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 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 recognizes that the Respondent submitted the January 31, 2007 revised Discharge Monitoring Report ("DMR") and May 31, 2007 DMR on June 5, 2008.
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 comply with permitted limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11959001, Interim Limitations and Monitoring Requirements Nos. 1 and 3 and Final Effluent Limitations and Monitoring Requirement Nos. 1, 2, and 6, as documented during a record review conducted on April 23, 2008, as indicated in the table below.



<b>EFFLUENT PARAMETER</b>										
<b>Permit Limit</b>										
	Dissolved Oxygen Monthly Min.	BOD Daily Average	BOD Daily Average	pH min.	TSS Daily Average	TSS Single Grab Max.	TSS Daily Average	TSS Single Grab Max	Total Chlorine Residual Monthly Min.	Total Chlorine Residual Monthly Max.
<b>Month/Year</b>	6.0 mg/L	20 mg/L	10 mg/L	6 SU	20 mg/L	65 mg/L	15 mg/L	60 mg/L	1.0 mg/L	4.0 mg/L
Jan-07	c	c	N/A	5.97	c	c	N/A	N/A	c	c
Feb-07	c	22	N/A	c	37	c	N/A	N/A	c	c
Mar-07	c	c	N/A	c	25	c	N/A	N/A	c	c
Apr-07	4.0	N/A	c	c	N/A	N/A	c	c	c	c
May-07	4.0	N/A	c	c	N/A	N/A	c	c	c	4.3
Jun-07	4.0	N/A	c	c	N/A	N/A	c	c	0.9	c
Aug-07	c	N/A	c	c	N/A	N/A	c	c	c	8.1
Sep-07	c	N/A	c	c	N/A	N/A	c	c	0.9	c
Oct-07	c	N/A	c	c	N/A	N/A	17	c	c	c
Nov-07	c	N/A	c	c	N/A	N/A	38	110	c	c
Dec-07	c	N/A	13	c	N/A	N/A	32	c	c	4.1

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
Biochemical Oxygen Demand	BOD
compliant	c
Not applicable	N/A
minimum	min.
maximum	max.
standard units	SU

2. Failed to submit the DMR for the reporting period ending May 31, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. 11959001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on April 23, 2008.
3. Failed to submit a complete and accurate DMR, in violation of 30 TEX. ADMIN. CODE § 305.125(17), TPDES Permit No. 11959001, Monitoring and Reporting Requirements No. 1 as documented during a record review conducted on April 23, 2008. Specifically, the DMR parameter data Total Ammonia Nitrogen single grab maximum was not timely submitted for the monitoring period ending January 31, 2007.
4. Failed to pay fees and associated late fees for TCEQ Financial Account Nos. 0021066A, 0021892A, 0021892U, 0021683A, 0021893A, 0902152, 90270108, 90020008, 92380022, 91860017, 91860027, 91810148, 91810048, 90480017, 90860109, 90240004, 90340051,



91960008, 92180006, 92180005, 90700078, 91490026, 91490027, 90650019, 91750026, 92360061, 90550008, 91140026, 92400033, 91680007, and 90550009 for fiscal year 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.51(a)(3), 334.128(a), and 334.22(a) and TEX. WATER CODE § 5.702 as documented during a record review conducted on April 23, 2008.

### 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: Texas Department of Transportation, Docket No. 2008-0902-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. The Respondent 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, Eight Thousand Two Hundred Seventy-Six Dollars (\$8,276) of the assessed administrative penalty shall be offset with the condition that the Respondent implement 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 further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Respondent, TCEQ Financial Administration Account Nos. 0021066A, 0021892A, 0021892U, 0021683A, 0021893A, 0902152, 90270108, 90020008, 92380022, 91860017, 91860027, 91810148, 91810048, 90480017, 90860109, 90240004, 90340051, 91960008, 92180006, 92180005, 90700078, 91490026, 91490027, 90650019, 91750026, 92360061, 90550008, 91140026, 92400033, 91680007, and 90550009", to the address listed in Ordering Provision No. 1; and
  - b. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 11959001 and Ordering Provisions 3.a., 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 to demonstrate compliance, 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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.



Texas Department of Transportation  
DOCKET NO. 2008-0902-MWD-E  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John Sullivan*  
For the Executive Director

11/3/2008  
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.

*Zane L. Webb*  
Signature

9-3-08  
Date

ZANE L. Webb, P.E.  
Name (Printed or typed)  
Authorized Representative of  
Texas Department of Transportation

Director, Maintenance Division  
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: 2008-0902-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Texas Department of Transportation  
**Payable Penalty Amount:** Eight Thousand Two Hundred Seventy-Six Dollars (\$8,276)  
**SEP Amount:** Eight Thousand Two Hundred Seventy-Six Dollars (\$8,276)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance  
**Location of SEP:** Ellis 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, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used 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.

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 from failing treatment systems

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.

