

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0897-MWD-E **TCEQ ID:** RN102187267 **CASE NO.:** 37682

**RESPONDENT NAME:** San Antonio Water System

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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> SAWS Medio Creek, located approximately 1,300 feet north of the point where United States Highway 90 crosses Medio Creek and approximately 1.25 miles west of Interstate Highway 410, Bexar 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> A complaint was received on March 12, 2009, alleging a fishkill. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 30, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493;                  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Steve Clouse, Chief Operating Officer, San Antonio Water System, 2800 U.S. Highway 281 North, San Antonio, Texas 78212                  Mr. Robert R. Puente, President/CEO, San Antonio Water System, 2800 U.S. Highway 281 North, San Antonio, Texas 78212  <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 checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> March 12, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> March 12, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 14, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to prevent the discharge of an excessive amount of solids from the Facility, resulting in a fish kill of an unknown number of fish. Specifically, on March 7, 2009, the Facility discharged an excessive amount of solids due to sludge settling problems that occurred after the newly constructed carousels were undergoing leak testing [30 TEX. ADMIN. CODE § 305.125(5), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010137040 Interim I Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2(d), and TEX. WATER CODE § 26.121(a)(1)].</p>	<p><b>Total Assessed:</b> \$46,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$46,000</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <p>a. On March 9, 2009, began draining and cleaning the post aeration chamber;</p> <p>b. On or about March 9, 2009, began monitoring on a continuous, daily basis, construction activities that might impact the Facility process;</p> <p>c. On or about March 9, 2009, increased minimum self-monitoring from five days per week to seven days per week; and</p> <p>d. On March 12, 2009, returned to compliance with its permitted total suspended solids limits.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): TPDES Permit No. WQ0010137040

Attachment A  
Docket Number: 2009-0897-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>San Antonio Water System</b>
<b>Penalty Amount:</b>	<b>Forty-Six Thousand Dollars (\$46,000)</b>
<b>SEP Offset Amount:</b>	<b>Forty-Six Thousand Dollars (\$46,000)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas State University River Systems Institute-<i>Continuous Water Quality Monitoring Network</i></b>
<b>Location of SEP:</b>	<b>Bexar County</b>

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 Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas State University* for the *Continuous Water Quality Monitoring Network* in Bell County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP monies will be used by the Recipient to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a "real time" monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.



C. Minimum Expenditure

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

Texas State University - San Marcos  
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &  
Director of Edwards Aquifer Research and Data Center  
601 University Drive JCK 420  
San Marcos, Texas 78666

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality



P.O. Box 13087  
Austin, Texas 78711-3087

**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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b> 18-May-2009	<b>PCW</b> 31-Aug-2009	<b>Screening</b> 26-May-2009	<b>EPA Due</b>
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	San Antonio Water System
<b>Reg. Ent. Ref. No.</b>	RN102187267
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37682	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0897-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Pamela Campbell
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit</b>	Minimum \$0	Maximum	\$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$50,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>	
<b>Compliance History</b>	17.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$8,500
<b>Notes</b>	The Respondent has one NOV for the same violations, one NOV for unrelated violations, and has two months of self-reported effluent violations.
<b>Culpability</b>	No 0.0% Enhancement <b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$12,500
<b>Economic Benefit</b>	0.0% Enhancement* <b>Subtotal 6</b> \$0
<small>Total EB Amounts</small> \$3	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small> \$3,000	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$46,000
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0% <b>Adjustment</b> \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
<b>Notes</b>	
	<b>Final Penalty Amount</b> \$46,000
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$46,000
<b>DEFERRAL</b>	0.0% Reduction <b>Adjustment</b> \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
<b>Notes</b>	No deferral is recommended for Findings Orders.
<b>PAYABLE PENALTY</b>	<b>\$46,000</b>

<b>Screening Date</b>	26-May-2009	<b>Docket No.</b>	2009-0897-MWD-E	<b>PCW</b>
<b>Respondent</b>	San Antonio Water System			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	37682			PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b>	RN102187267			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Pamela Campbell			

### 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)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more.	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 17%

>> **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**

The Respondent has one NOV for the same violations, one NOV for unrelated violations, and has two months of self-reported effluent violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 17%

<b>Screening Date</b> 26-May-2009	<b>Docket No.</b> 2009-0897-MWD-E	<b>PCW</b>		
<b>Respondent</b> San Antonio Water System	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 37682	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102187267				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Pamela Campbell				
<b>Violation Number</b> 1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(6), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010137040, Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2(d), and Tex. Water Code § 26.121(a)(1)			
<b>Violation Description</b>	Failed to prevent the discharge of an excessive amount of solids from the Facility, resulting in a fish kill of an unknown number of fish, as documented during the March 12, 2009 investigation. Specifically, on March 7, 2009, the Facility discharged an excessive amount of solids due to sludge settling problems that occurred after the newly constructed carousels were undergoing leak testing.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input checked="" type="checkbox"/>		
	Potential			
				<b>Percent</b> <input type="text" value="100%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.			
<b>Adjustment</b>				\$0
				<b>\$10,000</b>
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="5"/>	<b>Number of violation days</b>	<input type="text" value="5"/>
<i>mark only one with an x</i>	daily	<input checked="" type="checkbox"/>		
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event			
				<b>Violation Base Penalty</b> <input type="text" value="\$50,000"/>
Five daily events are recommended based on the date the discharge began (March 7, 2009) to the date the Facility returned to compliance (March 12, 2009).				
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	<b>\$12,500</b>	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary				
Ordinary	<input checked="" type="checkbox"/>			
N/A		(mark with x)		
<b>Notes</b>	The Respondent returned to compliance on March 12, 2009.			
<b>Violation Subtotal</b>				\$37,500
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	<input type="text" value="\$3"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$46,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$46,000"/>

### Economic Benefit Worksheet

**Respondent:** San Antonio Water System  
**Case ID No.:** 37682  
**Reg. Ent. Reference No.:** RN102187267  
**Media:** Water Quality  
**Violation No.:** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$3,000	7-Mar-2009	12-Mar-2009	0.01	\$0	\$3	\$3
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**  
 This is the estimated cost to determine the cause of the solids washout and make the necessary changes to the treatment units. The date required is the date the unauthorized discharge occurred and the final date is the date the Facility returned to compliance.

**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	\$3,000	<b>TOTAL</b>	\$3
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# Compliance History Report

Customer/Respondent/Owner-Operator:  
 Regulated Entity:  
 ID Number(s):

CN600529089 San Antonio Water System  
 RN102187267 SAWS MEDIO CREEK  
 IHW CORRECTIVE ACTION  
 WASTEWATER  
 WASTEWATER  
 WASTEWATER  
 WASTEWATER LICENSING  
 APPR 1,300 FT N OF THE POINT WHERE US HWY 90  
 CROSSES MEDIO CREEK AND APPR 1.25 MILES W OF  
 IH 410, BEXAR CTY, TEXAS  
 REGION 13 - SAN ANTONIO  
 May 26, 2009  
 Enforcement  
 May 26, 2004 to May 26, 2009  
 Regarding this Compliance History  
 Name: Pamela Campbell Phone: 239 - 4493

Classification: AVERAGE  
 Classification: AVERAGE  
 SOLID WASTE REGISTRATION # T2296

Rating: 3.15  
 Site Rating: 0.20

Location:

TCEQ Region:

Date Compliance History Prepared:

Agency Decision Requiring Compliance History:

Compliance Period:

TCEQ Staff Member to Contact for Additional Information

Name: Pamela Campbell

## 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/operator of the site during the compliance period? | No  |
| 3. If Yes, who is the current owner/operator?  | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ?   | N/A |
| 5. When did the change(s) in owner or operator occur?  | N/A |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO   |     |

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS inv. Track. No.)

- 1 06/21/2004 (357090)
- 2 06/21/2004 (357092)
- 3 06/21/2004 (357093)
- 4 08/25/2004 (357095)
- 5 09/17/2004 (357097)
- 6 10/21/2004 (357099)
- 7 11/22/2004 (357101)
- 8 12/20/2004 (384658)
- 9 02/17/2005 (384657)
- 10 02/22/2005 (349416)
- 11 03/18/2005 (430294)
- 12 04/20/2005 (430295)
- 13 05/19/2005 (430296)
- 14 06/20/2005 (430297)
- 15 07/19/2005 (430298)
- 16 09/01/2005 (443541)
- 17 09/19/2005 (443542)
- 18 10/19/2005 (473484)
- 19 11/18/2005 (473485)
- 20 12/16/2005 (473486)
- 21 02/15/2006 (473483)
- 22 03/17/2006 (501606)
- 23 04/19/2006 (501607)
- 24 05/18/2006 (501608)
- 25 06/19/2006 (501609)
- 26 06/30/2006 (501610)
- 27 08/31/2006 (523864)
- 28 08/31/2006 (523866)
- 29 09/19/2006 (523865)
- 30 11/16/2006 (548891)
- 31 12/12/2006 (548892)
- 32 01/12/2007 (531283)
- 33 02/20/2007 (582196)
- 34 03/15/2007 (582197)
- 35 03/15/2007 (582201)
- 36 04/20/2007 (582198)
- 37 06/06/2007 (582199)
- 38 06/20/2007 (582200)
- 39 08/31/2007 (608313)
- 40 09/19/2007 (608314)
- 41 09/19/2007 (608315)
- 42 11/16/2007 (635958)
- 43 11/19/2007 (622039)
- 44 12/19/2007 (622040)

45 02/19/2008 (673886)  
 46 03/19/2008 (673887)  
 47 03/19/2008 (673888)  
 48 03/19/2008 (673889)  
 49 04/22/2008 (641683)  
 50 05/19/2008 (692143)  
 51 06/17/2008 (692144)  
 52 08/21/2008 (713225)  
 53 08/21/2008 (713227)  
 54 09/18/2008 (713226)  
 55 11/20/2008 (729350)  
 56 12/18/2008 (729351)  
 57 05/15/2009 (739154)  
 58 05/15/2009 (741973)

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

Date:	07/31/2007	(608313)	CN600529069	
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	(608314)	CN600529069	
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:	11/16/2007	(635958)	CN600529069	
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date:	05/12/2009	(739154)	CN600529069	
Self Report?	NO		Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements (1) PERMIT			
Description:	Failure to prevent the unauthorized discharge of wastewater from the collection system.			

- 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  
SAN ANTONIO WATER SYSTEM  
RN102187267**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-0897-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding San Antonio Water System ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility located approximately 1,300 feet north of the point where United States Highway 90 crosses Medio Creek and approximately 1.25 miles west of Interstate Highway 410 in Bexar 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. During an investigation on March 12, 2009, TCEQ staff documented the discharge of an excessive amount of solids from the Facility, resulting in a fish kill of an unknown number of fish. Specifically, on March 7, 2009, the Facility discharged an excessive amount of solids due to sludge settling that occurred after the newly constructed carosels were undergoing leak testing.
4. The Respondent received notice of the violations on May 19, 2009.
5. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
  - a. On March 9, 2009, began draining and cleaning the post aeration chamber;
  - b. On or about March 9, 2009, began monitoring on a continuous, daily basis, construction activities that might impact the Facility process;
  - c. On or about March 9, 2009, increased minimum self-monitoring from five days per week to seven days per week; and
  - d. On March 12, 2009, returned to compliance with its permitted total suspended solids limits.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the discharge of an excessive amount of solids from the Facility, resulting in a fish kill, in violation of 30 TEX. ADMIN. CODE § 305.125(5), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010137040 Interim I Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2(d), and TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Forty-Six Thousand Dollars (\$46,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Forty-Six Thousand Dollars (\$46,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").



### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Forty-Six Thousand Dollars (\$46,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: San Antonio Water System, Docket No. 2009-0897-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

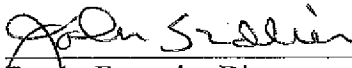
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4, Forty-Six Thousand Dollars (\$46,000) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment 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. 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.
4. 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.
5. 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.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 11/13/2009


I, the undersigned, have read and understand the attached Agreed Order in the matter of San Antonio Water System. I am authorized to agree to the attached Agreed Order on behalf of San Antonio Water System, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, San Antonio Water System waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 9-28-9

ROBERT R. Puente  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
San Antonio Water System

\_\_\_\_\_  
Title President / CEO

**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: 2009-0897-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>San Antonio Water System</b>
<b>Penalty Amount:</b>	<b>Forty-Six Thousand Dollars (\$46,000)</b>
<b>SEP Offset Amount:</b>	<b>Forty-Six Thousand Dollars (\$46,000)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas State University River Systems Institute-<i>Continuous Water Quality Monitoring Network</i></b>
<b>Location of SEP:</b>	<b>Bexar County</b>

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 Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas State University* for the *Continuous Water Quality Monitoring Network* in Bell County as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP monies will be used by the Recipient to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a "real time" monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

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

Texas State University - San Marcos  
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &  
Director of Edwards Aquifer Research and Data Center  
601 University Drive JCK 420  
San Marcos, Texas 78666

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset 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 Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality

San Antonio Water System  
Agreed Order - Attachment A

P.O. Box 13087  
Austin, Texas 78711-3087

**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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

