

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-1088-MWD-E **TCEQ ID:** RN102097177 **CASE NO.:** 37931  
**RESPONDENT NAME:** North Texas Municipal Water District

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Floyd Branch Regional Plant WWTP, located approximately 2,310 feet southeast of the intersection of Spring Valley Road and State Highway 75, Richardson, Dallas County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater system</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 December 7, 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> Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1460;  Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. James M. Parks, Executive Director, North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098  <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> May 7, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 18, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permit effluent limits for flow and total ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010257001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$5,600</p> <p><b>Total Deferred:</b> \$1,120  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$4,480</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent returned to compliance with permit effluent limits in February 2009 by rehabilitating the Facility by converting the Facility's two aeration basins from an extended air system to a plug flow treatment process.</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): WQ0010257001

**Attachment A**  
**Docket Number: 2009-1088-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>North Texas Municipal Water District</b>
<b>Payable Penalty Amount:</b>	<b>Four Thousand Four Hundred Eighty Dollars (\$4,480)</b>
<b>SEP Amount:</b>	<b>Four Thousand Four Hundred Eighty Dollars (\$4,480)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Keep Texas Beautiful – Texas Waterways Cleanup Program</b>
<b>Location of SEP:</b>	<b>Dallas 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 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 cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.



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:

Hester Bloom, Program Manager  
Keep Texas Beautiful  
8850 Business Park Drive, Suite 200  
Austin, Texas 78759

**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:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
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 October 30, 2008

<b>DATES</b>	<b>Assigned</b>	22-Jun-2008	<b>PCW</b>	13-Jul-2009	<b>Screening</b>	7-Jul-2009	<b>EPA Due</b>	5-Sep-2009
--------------	-----------------	-------------	------------	-------------	------------------	------------	----------------	------------

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	North Texas Municipal Water District
<b>Reg. Ent. Ref. No.</b>	RN102097177
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37931	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-1088-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>	Jeremy Escobar
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit</b>	Minimum \$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$5,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 37.0% Enhancement **Subtotals 2, 3, & 7** \$1,850

**Notes** The penalty is enhanced due to seven self-reported effluent violations and one NOV with violations that are dissimilar to those cited in this action.

**Culpability** No 0.0% Enhancement **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$1,250

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

Total EB Amounts \$320,274  
 Approx. Cost of Compliance \$5,000,000  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$5,600

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

Reduces or enhances the Final Subtotal by the Indicated percentage.

**Notes**

**Final Penalty Amount** \$5,600

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$5,600

**DEFERRAL** 20.0% Reduction **Adjustment** -\$1,120

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

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$4,480

Screening Date 7-Jul-2009

Docket No. 2009-1088-MWD-E

PCW

Respondent North Texas Municipal Water District

Policy Revision 2 (September 2002)

Case ID No. 37931

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102097177

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

### 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)	7	35%
	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%
<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) 37%

>> 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 penalty is enhanced due to seven self-reported effluent violations and one NOV with violations that are dissimilar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

<b>Screening Date</b> 7-Jul-2009		<b>Docket No.</b> 2009-1088-MWD-E		<b>PCW</b>
<b>Respondent</b> North Texas Municipal Water District			<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 37931			<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102097177				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Jeremy Escobar				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010257001, Effluent Limitations and Monitoring Requirements No. 1			
<b>Violation Description</b>	Failed to comply with permit effluent limits, as documented in a record review conducted on May 7, 2009. See attached table.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<b>Actual</b>			X
	<b>Potential</b>			
<b>Percent</b>				25%
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>Percent</b>				0%
<b>Matrix Notes</b>	A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Flow was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.			
<b>Adjustment</b>				\$7,500
				\$2,600
<b>Violation Events</b>				
<b>Number of Violation Events</b>		2	<b>Number of violation days</b>	
		129		
<i>mark only one with an x</i>	daily			
	weekly			
	monthly			
	quarterly	X		
	semiannual			
	annual			
	single event			
Two quarterly events are recommended.				<b>Violation Base Penalty</b>
				\$5,000
<b>Good Faith Efforts to Comply</b>				
		25.0%	<b>Reduction</b>	\$1,250
		Before NOV	NOV to EDPR/Settlement	
Extraordinary				
Ordinary	X			
N/A			(mark with x)	
<b>Notes</b>	The Respondent returned to compliance by February 28, 2009.			
<b>Violation Subtotal</b>				\$3,750
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		\$320,274	<b>Violation Final Penalty Total</b>	\$5,600
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
			\$5,600	

## Economic Benefit Worksheet

**Respondent:** North Texas Municipal Water District  
**Case ID No.:** 37931  
**Reg. Ent. Reference No.:** RN102097177  
**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
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	\$5,000,000	31-Mar-2008	28-Feb-2009	0.92	\$15,251	\$305,029	\$320,274
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:**  
 Actual cost of construction and engineering activities involved with rehabilitating the Facility by converting the Facility's two aeration basins from an extended air to plug flow treatment process to improve hydraulics and enhance treatment quality. Date required is the first month of noncompliance. Final date is the date compliance was achieved.

### 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	\$5,000,000	<b>TOTAL</b>	\$320,274
----------------------------	-------------	--------------	-----------

**Effluent Violation Table**  
 North Texas Municipal Water District  
 Docket No. 2009-1088-MWD-E  
 WQ0010257001

Permitted Effluent Limits	Flow 2-hour peak 6944 gpm	NH3-N Daily Max. Conc. 10 mg/L	NH3-N Daily Ave. Conc. March - November 2 mg/L	NH3-N Daily Ave. Conc. December - February 4 mg/L	NH3-N Daily Ave. Loading December - February 158 lbs/day
March 2008	9097	C	C	N/A	N/A
November 2008	C	11.4	5.46	N/A	N/A
December 2008	C	19.44	N/A	12.83	173.37
January 2009	C	19.25	N/A	C	C

NH3-N = Total Ammonia Nitrogen	N/A = Not Applicable	C = compliant	mg/L = milligrams per Liter	Ave. = average	Conc. = concentration	gpm = gallons per minute	lbs/day = pounds per day
--------------------------------	----------------------	---------------	-----------------------------	----------------	-----------------------	--------------------------	--------------------------



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601365448	North Texas Municipal Water District	Classification: AVERAGE	Rating: 3.05
Regulated Entity:	RN102097177	FLOYD BRANCH REGIONAL PLANT WWTP	Classification: AVERAGE	Site Rating: 0.23
ID Number(s):	WASTEWATER	PERMIT		WQ0010257001
	WASTEWATER	PERMIT		TX0023931000
	WASTEWATER	PERMIT		TPDES0023931
	WASTEWATER	PERMIT		TX0023931
	PRETREATMENT	PERMIT		WQ0010257001
	PRETREATMENT	EPA ID		TX0023931000
	WASTEWATER LICENSING	LICENSE		WQ0010257001
Location:	Approximately 2,310 feet southeast of the intersection of Spring Valley Road and State Highway 75 in the City of Richardson in Dallas County, Texas			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	July 07, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 01, 2004 to July 01, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jeremy Escobar	Phons:	239 - 1460	

## 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	07/30/2004	(299906)
2	08/24/2004	(353939)
3	10/01/2004	(353940)
4	10/01/2004	(353941)
5	11/23/2004	(353942)
6	11/23/2004	(353943)
7	12/30/2004	(382880)
8	02/22/2005	(382877)
9	02/22/2005	(382879)
10	03/28/2005	(382878)
11	06/23/2005	(420683)
12	06/22/2005	(420684)
13	07/21/2005	(420685)
14	08/24/2005	(441686)
15	09/15/2005	(441689)
16	09/23/2005	(441687)
17	09/23/2005	(441688)
18	11/28/2005	(470165)
19	12/21/2005	(470166)
20	02/24/2006	(470162)
21	02/24/2006	(470164)

22	02/28/2006	(451789)
23	03/08/2006	(452993)
24	03/20/2006	(470163)
25	05/22/2006	(499304)
26	05/22/2006	(499306)
27	06/23/2006	(499305)
28	08/10/2006	(521349)
29	09/25/2006	(521350)
30	09/25/2006	(521351)
31	09/25/2006	(521352)
32	11/27/2006	(577762)
33	12/27/2006	(577763)
34	02/22/2007	(577766)
35	03/22/2007	(577757)
36	04/23/2007	(577758)
37	05/23/2007	(577759)
38	05/23/2007	(577761)
39	06/22/2007	(577760)
40	08/20/2007	(602273)
41	09/21/2007	(602274)
42	09/21/2007	(602275)
43	09/21/2007	(602276)
44	11/26/2007	(620459)
45	12/18/2007	(620460)
46	02/25/2008	(672737)
47	02/25/2008	(672738)
48	03/06/2008	(672735)
49	03/24/2008	(672736)
50	03/31/2008	(679810)
51	05/22/2008	(690756)
52	06/11/2008	(682398)
53	06/23/2008	(711616)
54	08/25/2008	(711617)
55	08/25/2008	(711619)
56	08/25/2008	(711620)
57	09/23/2008	(711618)
58	11/24/2008	(728114)
59	12/19/2008	(728115)
60	02/24/2009	(751054)
61	03/11/2009	(736344)
62	03/17/2009	(751055)
63	03/17/2009	(751056)
64	03/17/2009	(751057)
65	06/18/2009	(744952)

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

Date: 01/31/2005 (382877) CN601365448  
 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 (470164) CN601365448  
 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 (577756) CN601365448  
 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:	03/31/2008	(672737)	CN601365448	Classification:	Moderate
Self Report?	YES				
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:	03/31/2008	(679810)	CN601365448	Classification:	Moderate
Self Report?	NO				
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:	11/30/2008	(728115)	CN601365448	Classification:	Moderate
Self Report?	YES				
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:	12/31/2008		CN601365448	Classification:	Moderate
Self Report?	YES				
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:	01/31/2009		CN601365448	Classification:	Moderate
Self Report?	YES				
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  
NORTH TEXAS MUNICIPAL WATER  
DISTRICT  
RN102097177**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1088-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 North Texas Municipal Water District ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater system at approximately 2,310 feet southeast of the intersection of Spring Valley Road and State Highway 75 in Richardson, Dallas 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 June 23, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Six Hundred Dollars (\$5,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

One Thousand One Hundred Twenty Dollars (\$1,120) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Four Hundred Eighty Dollars (\$4,480) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent returned to compliance with permit effluent limits in February 2009 by rehabilitating the Facility by converting the Facility's two aeration basins from an extended air system to a plug flow treatment process.
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 failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010257001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on May 7, 2009, and illustrated in the table below:

Effluent Violation Table					
Permitted Effluent Limits	Flow 2-hour peak 6944 gpm	NH3-N Daily Max. Conc. 10 mg/L	NH3-N Daily Ave. Conc. March - November 2 mg/L	NH3-N Daily Ave. Conc. December - February 4 mg/L	NH3-N Daily Ave. Loading December - February 158 lbs/day
March 2008	9097	C	C	N/A	N/A
November 2008	C	11.4	5.46	N/A	N/A
December 2008	C	19.44	N/A	12.83	173.37
January 2009	C	19.25	N/A	C	C

NH3-N = Total Ammonia Nitrogen	N/A = Not Applicable	C = compliant	mg/L = milligrams per Liter	Ave. = average	Conc. = concentration	gpm = gallons per minute	Max. = maximum	lbs/day = pounds per day
--------------------------------	----------------------	---------------	-----------------------------	----------------	-----------------------	--------------------------	----------------	--------------------------

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: North Texas Municipal Water District, Docket No. 2009-1088-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 an SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Four Hundred Eighty Dollars (\$4,480) 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

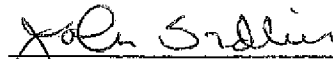
Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

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. 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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


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

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.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
September 25, 2009

\_\_\_\_\_  
Date

\_\_\_\_\_  
James M. Parks

\_\_\_\_\_  
Executive Director

\_\_\_\_\_  
Name (Printed or typed)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Authorized Representative of

\_\_\_\_\_  
North Texas Municipal Water District

**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: 2009-1088-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>North Texas Municipal Water District</b>
<b>Payable Penalty Amount:</b>	<b>Four Thousand Four Hundred Eighty Dollars (\$4,480)</b>
<b>SEP Amount:</b>	<b>Four Thousand Four Hundred Eighty Dollars (\$4,480)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Keep Texas Beautiful – Texas Waterways Cleanup Program</b>
<b>Location of SEP:</b>	<b>Dallas 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 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 cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.

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:

Hester Bloom, Program Manager  
Keep Texas Beautiful  
8850 Business Park Drive, Suite 200  
Austin, Texas 78759

**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:

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

