

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0982-MWD-E TCEQ ID: RN101702397 CASE NO.: 37854

RESPONDENT NAME: Texas H2O, Inc.

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Canyon Creek WWTP, located adjacent to Lake Granbury, approximately two miles north of the intersection of Farm-to-Market Road 2425 and Farm-to-Market Road 3210, Walters Bend, Hood County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 4, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732] TCEQ Enforcement Coordinator: 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 Respondent: Mr. Jess Lewellyn, Chief Executive Officer, Texas H2O, Inc., 208 East Broad Street Suite 109, Mansfield, Texas 76063 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 4, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 20, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limits for total suspended solids, total chlorine residual, biochemical oxygen demand, and flow [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013786001 Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 2].</p>	<p>Total Assessed: \$9,280</p> <p>Total Deferred: \$1,856 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,712</p> <p>Total Paid to General Revenue: \$3,712</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to:</p> <p>Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013786001, 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.</p> <p>2) The Order will also require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See Attachment A)</p>

Additional ID No(s): TPDES Permit No. WQ0013786001

Attachment A
Docket Number: 2009-0982-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas H2O, Inc.
Payable Penalty Amount: Seven Thousand Four Hundred Twenty-Four Dollars (\$7,424)
SEP Amount: Three Thousand Seven Hundred Twelve Dollars (\$3,712)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP: Hood 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

Texas H2O, Inc.
Agreed Order – Attachment A

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:

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

DATES	Assigned	26-May-2009	Screening	25-Jun-2009	EPA Due	
	PCW	15-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas H2O, Inc.
Reg. Ent. Ref. No.	RN101702397
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37854	No. of Violations	1
Docket No.	2009-0982-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Pamela Campbell
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 1
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	152.0% Enhancement	Subtotals 2, 3, & 7 \$6,080
Notes	The Respondent has one 1660 Order and two NOV's for the same violations, one NOV for unrelated violations, and 24 months of self-reported effluent violations.	
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 \$0
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$816	
Approx. Cost of Compliance	\$5,000	*Capped at the Total EB \$ Amount
SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,080
OTHER FACTORS AS JUSTICE MAY REQUIRE	-7.9%	Adjustment -\$800
Notes	Recommend reduction in penalty so that monthly self-reported violations do not overly impact the penalty amount and to prevent double-enhancement of the penalty amount for same violations that were self-reported.	
	Final Penalty Amount	\$9,280
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$9,280
DEFERRAL	20.0% Reduction	Adjustment -\$1,856
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$7,424

Screening Date 25-Jun-2009

Docket No. 2009-0982-MWD-E

PCW

Respondent Texas H2O, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37854

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101702397

Media [Statute] Water Quality

Enf. Coordinator 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)	26	130%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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) 152%

>> **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 1660 Order and two NOVs for the same violations, one NOV for unrelated violations, and 24 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 152%

Screening Date	25-Jun-2009	Docket No.	2009-0982-MWD-E	PCW
Respondent	Texas H2O, Inc.	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	37854	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101702397			
Media [Statute]	Water Quality			
Enf. Coordinator	Pamela Campbell			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(4), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination Discharge Permit No. WQ0013786001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 2			
Violation Description	Failed to comply with permitted effluent limits, as documented during the March 4, 2009 record review, and as shown on the attached table.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 A simplified model was utilized to evaluate the values for biochemical oxygen demand ("BOD₅") and flow to determine whether the discharged amounts of pollutants (BOD₅) exceeded levels protective of human health or the environment. Total chlorine residual and total suspended solids were also evaluated. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="checkbox"/>
weekly	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty

Four quarterly events are recommended.

Good Faith Efforts to Comply Reduction

	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"/>	(mark with x)

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Texas H2O, Inc.
Case ID No.: 37854
Reg. Ent. Reference No.: RN101702397
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)	\$5,000	1-Dec-2007	31-Mar-2010	2.33	\$39	\$777	\$816
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 evaluate the Facility to determine the cause of the effluent violations and complete corrective actions. The date required is the date that the violations began and the final date is the anticipated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$816

EFFLUENT VIOLATION TABLE

Texas H2O, Inc.
 TPDES Permit No. WQ0013786001
 Docket No. 2009-0982-MWD-E

Permitted Effluent Limits	Monitoring Period End Date							
	Dec-07	Jan-08	Mar-08	Apr-08	May-08	Jun-08	Oct-08	Nov-08
TSS daily avg. loading 5.3 lbs/day	c	c	9.45	c	c	c	c	c
TSS daily avg. conc. 15 mg/L	16	c	83	31	c	c	c	16
TSS max. single grab 60 mg/L	c	c	250	c	c	c	c	c
TCR monthly min. 1.0 mg/L	.9	.9	.5	.5	.8	.7	c	c
TCR monthly max. 4.0 mg/L	4.5	c	c	c	c	c	c	c
Flow daily avg. 0.042 MGD	c	c	c	c	c	c	0.12	c
BOD ₅ daily avg. conc. 10 mg/L	c	c	25	19	11	c	c	c

avg. = average

c = compliant

BOD₅ = biochemical oxygen demand

conc. = concentration

lbs/day = pounds per day

mg/L = milligrams per liter

min. = minimum

max. = maximum

MGD = million gallons per day

TCR = total chlorine residual

TSS = total suspended solids

Compliance History Report

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

CN600668201 Texas H2O, Inc.
RN101702397 CANYON CREEK WWTP
WASTEWATER PERMIT
WASTEWATER PERMIT
WASTEWATER PERMIT
WASTEWATER PERMIT
WASTEWATER PERMIT

Classification: AVERAGE
Classification: AVERAGE
WQ0013786001
TPDES0089338
TX0089338
WQ0013786001
TX0089338

Rating: 2.73
Site Rating: 2.45

Location: LOCATED ADJACENT TO LAKE GRANBURY
APPROXIMATELY 2 MI N OF THE INTERSECTION OF FM
2425 AND FM 3210 IN WALTERS BEND IN HOOD COUNTY, TX
REGION 04 - DFW METROPLEX

TCEQ Region:
Date Compliance History Prepared: May 28, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 26, 2004 to May 28, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Pamela Campbell Phone: 239 - 4493

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 |

Components (Multimedia) for the Site :

6. Rating Date: 9/1/2008 Repeat Violator: NO

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

Effective Date:	11/09/2007	ADMINORDER 2007-0323-MWD-E
Classification:	Moderate	
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	Effluent Limits PERMIT	
Description:	Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	
Classification:	Moderate	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(17)	
Rqmt Prov:	Self-reporting Requirements PERMIT	
Description:	Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.	

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 07/06/2004	(477389)
2 07/28/2004	(477391)
3 09/20/2004	(477395)
4 10/20/2004	(477397)
5 11/17/2004	(477399)
6 12/06/2004	(477393)
7 12/30/2004	(477401)
8 01/20/2005	(477403)
9 02/17/2005	(349356)
10 02/21/2005	(477381)
11 03/23/2005	(477383)
12 04/25/2005	(477386)
13 05/03/2005	(379184)
14 06/08/2005	(477388)
15 07/05/2005	(477390)
16 09/02/2005	(477392)
17 09/29/2005	(477396)
18 10/24/2005	(477398)
19 11/16/2005	(477394)
20 11/16/2005	(477400)
21 12/22/2005	(477402)
22 01/26/2006	(477404)
23 03/13/2006	(477382)
24 03/13/2006	(477384)
25 04/17/2006	(504020)
26 06/21/2006	(504021)
27 07/11/2006	(526393)
28 08/02/2006	(526394)
29 08/24/2006	(526395)
30 09/29/2006	(526396)
31 10/18/2006	(625203)
32 11/16/2006	(625205)
33 12/19/2006	(625207)
34 01/24/2007	(625209)

35 02/23/2007 (625195)
 36 02/28/2007 (539956)
 37 03/12/2007 (625196)
 38 04/18/2007 (625197)
 39 04/27/2007 (555464)
 40 05/21/2007 (625198)
 41 06/21/2007 (625199)
 42 07/24/2007 (625200)
 43 08/27/2007 (625201)
 44 09/21/2007 (594870)
 45 09/24/2007 (625202)
 46 10/18/2007 (625204)
 47 11/29/2007 (625206)
 48 12/27/2007 (625208)
 49 01/15/2008 (675629)
 50 02/27/2008 (693941)
 51 03/21/2008 (675628)
 52 04/30/2008 (693942)
 53 05/23/2008 (693943)
 54 06/30/2008 (731082)
 55 07/08/2008 (715276)
 56 09/08/2008 (715277)
 57 09/19/2008 (715278)
 58 10/03/2008 (731083)
 59 10/22/2008 (731084)
 60 12/01/2008 (731085)
 61 12/29/2008 (707565)
 62 05/08/2009 (754969)
 63 01/22/2009 (754370)
 64 02/17/2009 (754366)
 65 03/10/2009 (754367)
 66 04/20/2009 (754368)
 67 05/21/2009 (744975)
 68 05/21/2009 (737558)

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

Date: 07/31/2004 (477393) CN600656201
 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: 02/15/2005 (349356) CN600656201
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.7(b)
 Description: Failure to provide adequate railings and stairways for the facility.

Date: 05/31/2005 (477390) CN600656201
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (477392) CN600656201
 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 (477382) CN600656201
 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 (526393) CN600656201
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006 (625203) CN600656201
 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: 10/31/2006 (625205) CN600656201
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: 11/30/2006 (625207) CN600656201
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: 12/31/2006 (625209) CN600656201
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: 01/31/2007 (625195) CN600656201
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: 04/27/2007 (655464) CN600656201
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet permitted effluent limit requirements.

Date: 05/31/2007 (625199) CN600656201
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: 6/30/2007 (625200) CN600656201
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: 07/31/2007 (625201) CN600656201
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 (625202) CN600656201
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 (625204) CN600656201
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 (625206) CN600656201
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 (675629) CN600656201
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: 01/31/2008 (693941) CN600656201
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: 03/31/2008 (693942) CN600656201
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: 04/30/2008 (693943) CN600656201
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: 05/31/2008 (715276) CN600656201
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: 06/30/2008 (731083) CN600656201
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: 10/31/2008 (731085) CN600656201
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: 11/30/2008 CN600656201
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: 01/02/2009 (707565)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain adequate safeguards to prevent the discharge of untreated wastewater during electrical failures by means of alternate power sources or standby generators under permit provision under Operational Requirements, No. 4, page 10.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to maintain the physical structures. The aeration basin and the digester at the plant has been corroded.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet permit limits for Total Suspended Solids (TSS). The analytical result for the sample obtained during the investigation was 18.0 mg/l. The permit limit for the grab sample is 15.0 mg/l.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet permit limit for total chlorine residual. The chlorine residual obtained was 0.35 mg/l. The effluent should contain a chlorine residual of at least 1.0 mg/l.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to report effluent violation that exceeds 40% of the permit limits within five working days of becoming aware of the non-compliance. The TSS and BOD average for the period of 03/31/2008 - 04/30/2008 and for the period of 04/30/2008 - 05/23/2008 was reported to be 83.0 mg/l and 25.0 mg/l & 31.0 mg/l and 19.0 mg/l respectively.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet permit limits for TSS, BOD, flow and total chlorine residual. Since the last investigation, 4 excursions on BOD, 4 excursions on TSS, 1 excursion on flow and 11 excursions on total chlorine residual have been reported.

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 H2O, INC.
RN101702397**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0982-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 H2O, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located adjacent to Lake Granbury, approximately two miles north of the intersection of Farm-to-Market Road 2425 and Farm-to-Market Road 3210 in Walters Bend, Hood 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 25, 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 Nine Thousand Two Hundred Eighty Dollars (\$9,280) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Seven Hundred Twelve Dollars

(\$3,712) of the administrative penalty and One Thousand Eight Hundred Fifty-Six Dollars (\$1,856) 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. Three Thousand Seven Hundred Twelve Dollars (\$3,712) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, as shown on the following table, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013786001 Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on March 4, 2009.

Effluent Violation Table

Permitted Effluent Limits	Monitoring Period End Date							
	Dec-07	Jan-08	Mar-08	Apr-08	May-08	Jun-08	Oct-08	Nov-08
TSS daily avg. loading 5.3 lbs/day	c	c	9.45	c	c	c	c	c
TSS daily avg. conc. 15 mg/L	16	c	83	31	c	c	c	16
TSS max. single grab 60 mg/L	c	c	250	c	c	c	c	c
TCR monthly min. 1.0 mg/L	.9	.9	.5	.5	.8	.7	c	c
TCR monthly max. 4.0 mg/L	4.5	c	c	c	c	c	c	c
Flow daily avg. 0.042 MGD	c	c	c	c	c	c	0.12	c
BOD ₅ daily avg. conc. 10 mg/L	c	c	25	19	11	c	c	c

avg. = average

c = compliant

BOD₅ = biochemical oxygen demand

conc. = concentration

lbs/day = pounds per day

mg/L = milligrams per liter

min. = minimum

max. = maximum

MGD = million gallons per day

TCR = total chlorine residual

TSS = total suspended solids

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 H2O, Inc., Docket No. 2009-0982-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 I, Paragraph 6 above, Three Thousand Seven Hundred Twelve

Dollars (\$3,712) 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, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013786001, 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 include detailed supporting documentation including receipts, and/or other records 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

12/11/2009

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.

X

Signature

11/2/09

Date

Jess W. Lowelby

Name (Printed or typed)
Authorized Representative of
Texas H2O, Inc.

CEO

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: 2009-0982-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas H2O, Inc.
Payable Penalty Amount:	Seven Thousand Four Hundred Twenty-Four Dollars (\$7,424)
SEP Amount:	Three Thousand Seven Hundred Twelve Dollars (\$3,712)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP:	Hood 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 coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

Texas H2O, Inc.
Agreed Order – Attachment A

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:

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.

