

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1536-EAQ-E TCEQ ID: RN104421649 CASE NO.: 38405
RESPONDENT NAME: Comal Independent School District

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 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 checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: CISD Canyon Lake High School, 8555 Ranch-to-Market Road 32, Fischer, Comal County</p> <p>TYPE OF OPERATION: Construction site for a high school</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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: None TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. M. H. Walker, Superintendent, Comal Independent School District, 1404 North Interstate Highway 35, New Braunfels, Texas 78130 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 29, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 19, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to obtain approval of a modification to the Contributing Zone Plan ("CZP") prior to conducting a regulated activity over the Edwards Aquifer Contributing Zone. Specifically, the Respondent had commenced clearing and grading activities for the construction of a proposed agricultural building at the Site, disturbing less than five acres, which were not authorized under the CZP approval dated April 11, 2005 [30 TEX. ADMIN. CODE § 213.23(a)(1) and CZP 13-04101101, Standard Conditions No. 3].</p> <p>2) Failure to construct the on site extended detention basin in accordance with the design proposed in the CZP approval dated April 11, 2005. Specifically, the basin was built for flood control only and did not contain a riser pipe necessary for the basin to function as an extended detention basin in order to provide adequate water quality treatment [30 TEX. ADMIN. CODE § 213.23(j) and CZP 13-04101101 Permanent Pollution Abatement Measures No. 5].</p> <p>3) Failure to provide soil stabilization measures at the Site. Specifically, the investigator observed that the Respondent failed to stabilize the Site in areas where construction had ceased [30 TEX. ADMIN. CODE § 213.23(j) and CZP 13-04101101 Standard Conditions No. 9].</p>	<p>Total Assessed: \$4,700</p> <p>Total Deferred: \$940 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,760</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. On July 23, 2009, received approval for the modification to CZP 13-04101101; and</p> <p>b. On September 17, 2009, installed a riser pipe in the extended detention basin to provide adequate water quality treatment, in accordance with CZP 13-04101101.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, ensure that final stabilization of the Site, for areas where construction has ceased, has been established in accordance with CZP 13-04101101; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	24-Aug-2009	Screening	4-Sep-2009	EPA Due	
	PCW	8-Sep-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Comal Independent School District		
Reg. Ent. Ref. No.	RN104421649		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38405	No. of Violations	3
Docket No.	2009-1536-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7 \$900
Notes	The penalty is enhanced due to one agreed order with denial of liability.	
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 \$700
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$3,276	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$150,000	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,700
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the Indicated percentage.</small>		
Notes		
	Final Penalty Amount	\$4,700
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$4,700
DEFERRAL	20.0% Reduction	Adjustment -\$940
<small>Reduces the Final Assessed Penalty by the Indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$3,760

Screening Date: 4-Sep-2009

Docket No: 2009-1536-EAQ-E

PCW

Respondent: Comal Independent School District

Policy Revision 2 (September 2002)

Case ID No: 38405

PCW Revision October 30, 2009

Reg. Ent. Reference No: RN104421649

Media [Statute]: Edwards Aquifer

Enf. Coordinator: Steve Villatoro

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
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) 20%

>> 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 one agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 4-Sep-2009	Docket No. 2009-1536-EAQ-E	PCW
Respondent Comal Independent School District	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 38405	<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN104421649		
Media [Statute] Edwards Aquifer		
Enf. Coordinator Steve Villatoro		
Violation Number 1		
Rule Cite(s)	30.Tex. Admin. Code § 213.23(a)(1) and Contributing Zone Plan ("CZP") 13-04101101, Standard Conditions No. 3	
Violation Description	Failed to obtain approval of a modification to the CZP prior to conducting a regulated activity over the Edwards Aquifer Contributing Zone, as documented during the May 29, 2009 investigation. Specifically, the Respondent had commenced clearing and grading activities for the construction of a proposed agricultural building at the Site, disturbing less than five acres, which were not authorized under the CZP approval dated April 11, 2005.	
Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release	Major Moderate Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>
Percent	0%	
>> Programmatic Matrix		
	Falsification	Major Moderate Minor
	<input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Percent	10%	
Matrix Notes	100% of rule requirement was not met.	
Adjustment	\$9,000	
		\$1,000
Violation Events		
Number of Violation Events	2	Number of violation days
	65	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
Violation Base Penalty	\$2,000	
	Two monthly events are recommended based on the investigation date (May 29, 2009) to the date of compliance (July 23, 2009).	
Good Faith Efforts to Comply		
	25.0% Reduction	\$500
Extraordinary	Before NOV	NOV to EDRP/Settlement Offer
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	(mark with x)
Notes	The Respondent achieved compliance on July 23, 2009	
Violation Subtotal	\$1,500	
Economic Benefit (EB) for this violation		
Estimated EB Amount	\$49	Statutory Limit Test
		Violation Final Penalty Total
		\$1,900
	This violation Final Assessed Penalty (adjusted for limits)	
	\$1,900	

Economic Benefit Worksheet

Respondent: Comal Independent School District
Case ID No.: 38405
Reg. Ent. Reference No.: RN104421649
Media: Edwards Aquifer
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				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	\$6,500	29-May-2009	23-Jul-2009	0.15	\$49	n/a	\$49
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost reflects the amount to prepare and submit an application to modify the CZP. The date required is the initial investigation date and the final date is the date the plan was approved.

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

\$6,500

TOTAL

\$49

Screening Date: 4-Sep-2009	Docket No.: 2009-1538-EAQ-E	PCW		
Respondent: Comal Independent School District	<i>Policy Revision 2 (September 2002)</i>			
Case ID No.: 38405	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No.: RN104421649				
Media [Statute]: Edwards Aquifer				
Enf. Coordinator: Steve Villatoro				
Violation Number: 2				
Rule Cite(s):	30 Tex. Admin. Code § 213.23(j) and CZP 13-04101101 Permanent Pollution Abatement Measures No. 5			
Violation Description:	Failed to construct the on site extended detention basin in accordance with the design proposed in the GZP approval dated April 11, 2005. Specifically, the basin was built for flood control only and did not contain a riser pipe necessary for the basin to function as an extended detention basin in order to provide adequate water quality treatment.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="10%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	Failure to correctly construct the water quality basin could expose human health or the environment to significant amounts of pollutants through the release of storm water runoff.			
Adjustment		<input type="text" value="\$9,000"/>		<input type="text" value="\$1,000"/>
Violation Events				
Number of Violation Events		<input type="text" value="2"/>	Number of violation days	
		<input type="text" value="98"/>		
<i>mark only one with an x</i>	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		<input type="text" value="\$2,000"/>		
Two quarterly events are recommended based on the investigation date (May 29, 2009) to the date of screening (September 4, 2009).				
Good Faith Efforts to Comply		10.0% Reduction	<input type="text" value="\$200"/>	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
N/A	<input type="checkbox"/>	(mark with x)		
Notes:	The Respondent achieved compliance on September 17, 2009.			
Violation Subtotal		<input type="text" value="\$1,800"/>		
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$2,980"/>	Violation Final Penalty Total <input type="text" value="\$2,200"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$2,200"/>	

Economic Benefit Worksheet

Respondent Comal Independent School District
Case ID No. 38405
Reg. Ent. Reference No. RN104421649
Media Edwards Aquifer
Violation No. 2

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	\$140,000	29-May-2009	17-Sep-2009	0.30	\$142	\$2,838	\$2,980
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to retrofit the water quality basin and install a riser pipe to provide adequate water quality treatment. Date required is the date of the investigation. Final date is the 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

\$140,000

TOTAL

\$2,980

Screening Date 4-Sep-2009	Docket No. 2009-1536-EAQ-E	PCW			
Respondent Comal Independent School District	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 38405	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN104421649					
Media [Statute] Edwards Aquifer					
Enf. Coordinator Steve Villatoro					
Violation Number 3					
Rule Cite(s)	30 Tex. Admin. Code § 213.23(j) and CZP 13-04101101 Standard Conditions No. 9				
Violation Description	Failed to provide soil stabilization measures at the Site, as documented during the May 29, 2009 investigation. Specifically, the investigator observed that the Respondent failed to stabilize the Site in areas where construction had ceased.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
				Percent 5%	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent 0%	
Matrix Notes	Failure to properly implement final stabilization of the Site could expose human health or the environment to insignificant amounts of pollutants through the release of storm water runoff.				
Adjustment				\$9,500	
				\$500	
Violation Events					
Number of Violation Events		1	Number of violation days		
		98			
<i>mark only one with an x</i>	daily	<input type="checkbox"/>			
	weekly	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	<input type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input checked="" type="checkbox"/>			
				Violation Base Penalty \$500	
One single event is recommended based on documentation of the violation during the investigation on May 29, 2009.					
Good Faith Efforts to Comply		0.0% 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				\$500	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$246	Violation Final Penalty Total \$600		
This violation Final Assessed Penalty (adjusted for limits)				\$600	

Economic Benefit Worksheet

Respondent: Comal Independent School District
Case ID No.: 38405
Reg. Ent. Reference No.: RN104421649
Media: Edwards Aquifer
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$3,500	29-May-2009	31-May-2010	1.01	\$12	\$235	\$246
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to stabilize the Site. Date required is the date of the investigation. Final date is the expected date of 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

\$3,500

TOTAL

\$246

Compliance History Report

Customer/Respondent/Owner-Operator: CN600249825 Comal Independent School District Classification: AVERAGE Rating: 4.55
Regulated Entity: RN104421649 CISD CANYON LAKE HIGH SCHOOL Classification: AVERAGE Site Rating: 40.00
ID Number(s): EDWARDS AQUIFER REGISTRATION 13-04101101
Location: 8555 Ranch-to-Market Road 32, Fischer, Comal County, Texas
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: August 31, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 31, 2004 to August 31, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Steve Villatoro Phone: 512-239-4930

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No.
2. Has there been a (known) change in ownership/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 Effective Date: 11/06/2005 ADMINORDER 2006-0561-EAQ-E
Classification: Major
Citation: 30 TAC Chapter 213, SubChapter B 213.23(a)(1)(B)
Description: Failure to obtain Commission approval of a contributing zone plan prior to commencing construction of a regulated activity on the Edwards Aquifer Contributing Zone.

- 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 02/21/2005 (346039)
2 08/19/2009 (743245)

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

N/A

- 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
COMAL INDEPENDENT SCHOOL
DISTRICT
RN104421649**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1536-EAQ-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 Comal Independent School 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 construction site for a high school at 8555 Ranch-to-Market Road 32 in Fischer, Comal County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 August 24, 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 Four Thousand Seven Hundred Dollars (\$4,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Three Thousand Seven Hundred Sixty Dollars (\$3,760) of the administrative penalty and Nine Hundred Forty Dollars (\$940) 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.

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 has implemented the following corrective measures at the Site:
 - a. On July 23, 2009, received approval for the modification to Contributing Zone Plan ("CZP") 13-04101101; and
 - b. On September 17, 2009, installed a riser pipe in the extended detention basin to provide adequate water quality treatment, in accordance with CZP 13-04101101.
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 Site, the Respondent is alleged to have:

1. Failed to obtain approval of a modification to the CZP prior to conducting a regulated activity over the Edwards Aquifer Contributing Zone, in violation of 30 TEX. ADMIN. CODE § 213.23(a)(1) and CZP 13-04101101, Standard Conditions No. 3, as documented during the May 29, 2009 investigation. Specifically, the Respondent had commenced clearing and grading activities for the construction of a proposed agricultural building at the Site, disturbing less than five acres, which were not authorized under the CZP approval dated April 11, 2005.
2. Failed to construct the on site extended detention basin in accordance with the design proposed in the CZP approval dated April 11, 2005, in violation of 30 TEX. ADMIN. CODE § 213.23(j) and CZP 13-04101101 Permanent Pollution Abatement Measures No. 5, as documented during the

May 29, 2009 investigation. Specifically, the basin was built for flood control only and did not contain a riser pipe necessary for the basin to function as an extended detention basin in order to provide adequate water quality treatment.

3. Failed to provide soil stabilization measures at the Site, in violation of 30 TEX. ADMIN. CODE § 213.23(j) and CZP 13-04101101 Standard Conditions No. 9, as documented during the May 29, 2009 investigation. Specifically, the investigator observed that the Respondent failed to stabilize the Site in areas where construction had ceased.

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: Comal Independent School District, Docket No. 2009-1536-EAQ-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, ensure that final stabilization of the Site, for areas where construction has ceased, has been established in accordance with CZP 13-04101101; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

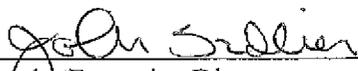
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of 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

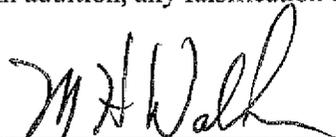
Date 1/8/2010

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

Date 11/3/09

M.H. Walker

Name (Printed or typed)
Authorized Representative of
Comal Independent School District

Superintendent
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.