

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0151-EAQ-E **TCEQ ID:** RN105569248 **CASE NO.:** 39068  
**RESPONDENT NAME:** Round Rock Independent School 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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Westwood High School Baseball Fields, 12400 Mellow Meadow Drive, Austin, Williamson County</p> <p><b>TYPE OF OPERATION:</b> Baseball fields</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 May 24, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Alan Albers, Executive Director of Operations and Facilities, Round Rock Independent School District, 1511 Round Rock Avenue, Round Rock, Texas 78681  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> November 17, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 15, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to obtain approval for a modification of a previously approved Edwards Aquifer Water Pollution Abatement Plan ("WPAP") prior to construction of the modification. Specifically, the WPAP, approved on August 11, 2008, was modified to include a second storm water outlet pipe for the water quality pond; however, the outlet pipe was installed prior to obtaining approval of the modification from the TCEQ [30 TEX. ADMIN. CODE § 213.4(j)(1) and WPAP No. 11-08061801 Standard Condition No. 6].</p> <p>2) Failure to comply with the terms of the approved WPAP. Specifically, notification of intent to commence construction was not submitted to the Austin Regional Office at least 48 hours prior to commencing construction [30 TEX. ADMIN. CODE § 213.5(f)(1)(a)(i) and WPAP No. 11-08061801 Standard Condition No. 7].</p>	<p><b>Total Assessed:</b> \$9,375</p> <p><b>Total Deferred:</b> \$1,875  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$7,500</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 developed procedures to timely submit notifications and submitted written notice to the TCEQ Austin Regional Office on December 28, 2009 that construction had commenced.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, either remove and/or permanently seal the second storm water outlet pipe installed in the water quality pond or submit an administratively complete WPAP modification to obtain approval for any change to the water quality pond that has not been previously approved;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning a WPAP modification within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>c. 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): 11-08061801



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	19-Jan-2010	Screening	28-Jan-2010	EPA Due	
	PCW	29-Jan-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Round Rock Independent School District		
Reg. Ent. Ref. No.	RN105569248		
Facility/Site Region	11-Austin	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39068	No. of Violations	2
Docket No.	2010-0151-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$10,000**

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

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

**Compliance History** 0.0% Enhancement *Subtotals 2, 3, & 7* **\$0**

Notes: No change due to compliance history.

**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* **\$625**

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

Total EB Amounts \$214  
Approx. Cost of Compliance \$6,300  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$9,375**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$9,375**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$9,375**

**DEFERRAL** 20.0% Reduction *Adjustment* **-\$1,875**

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** **\$7,500**

Screening Date 28-Jan-2010

Docket No. 2010-0151-EAQ-E

PCW

Respondent Round Rock Independent School District

Policy Revision 2 (September 2002)

Case ID No. 39068

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105569248

Media [Statute] Edwards Aquifer

Enf. Coordinator Thomas Jecha, P.G.

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

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> 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

No change due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

<b>Screening Date:</b> 28-Jan-2010	<b>Docket No.:</b> 2010-0151-EAQ-E	<b>PCW</b>		
<b>Respondent:</b> Round Rock Independent School District	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.:</b> 39068	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.:</b> RN105569248				
<b>Media [Statute]:</b> Edwards Aquifer				
<b>Enf. Coordinator:</b> Thomas Jecha, P.G.				
<b>Violation Number:</b> 1				
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 213.4(i)(1) and Edwards Aquifer Water Pollution Abatement Plan ("WPAP") No. 11-08061801 Standard Condition No. 6			
<b>Violation Description:</b>	Failed to obtain approval for a modification of a previously approved WPAP prior to construction of the modification. Specifically, the WPAP, approved on August 11, 2008, was modified to include a second storm water outlet pipe for the water quality pond; however, the outlet pipe was installed prior to obtaining approval of the modification from the TCEQ.			
<b>Base Penalty</b>	\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major			Moderate	Minor
<input type="checkbox"/>			<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Matrix Notes</b>			<b>Percent</b>	
100% of the rule requirement was not met.			<input type="text" value="25%"/>	
<b>Adjustment</b>			\$7,500	
			\$2,500	
<b>Violation Events</b>				
<b>Number of Violation Events:</b>		<input type="text" value="3"/>	<b>Number of violation days</b>	
		<input type="text" value="72"/>		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>	
	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"/>		
<input type="text" value="\$7,500"/>				
Three monthly events are recommended from the November 17, 2009 investigation until the January 28, 2010 case screening date.				
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0	
		Before NOV	NOV to EDRP/Sellment Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>			\$7,500	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$214"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$7,500"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$7,500"/>	

### Economic Benefit Worksheet

**Respondent** Round Rock Independent School District  
**Case ID No.** 39068  
**Reg. Ent. Reference No.** RN105569248  
**Media** Edwards Aquifer  
**Violation No.** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$5,200	17-Nov-2009	13-Sep-2010	0.82	\$214	n/a	\$214
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain approval of a modified WPAP. The date required is the investigation date and the final date is the expected 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	\$5,200	<b>TOTAL</b>	\$214
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<b>Screening Date</b>	28-Jan-2010	<b>Docket No.</b>	2010-0151-EAQ-E	<b>PCW</b>	
<b>Respondent</b>	Round Rock Independent School District		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	39068	<i>PCW Revision October 30, 2009</i>			
<b>Reg. Ent. Reference No.</b>	RN105569248				
<b>Media [Statute]</b>	Edwards Aquifer				
<b>Enf. Coordinator</b>	Thomas Jecha, P.G.				
<b>Violation Number</b>	2				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 213.5(f)(1)(a)(i), WPAP No. 11-08061801 Standard Condition No. 7				
<b>Violation Description</b>	Failed to comply with the terms of the approved WPAP. Specifically, notification of intent to commence construction was not submitted to the Austin Regional Office at least 48 hours prior to commencing construction.				
<b>Base Penalty</b>				\$10,000	
<b>&gt;&gt; Environmental Property and Human Health Matrix</b>					
<b>OR</b>	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="25%"/>	
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
	<b>Adjustment</b>			\$7,500	
				\$2,500	
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="41"/>	<b>Number of violation days</b>	
	<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b>	
		weekly	<input type="text"/>		\$2,500
		monthly	<input type="text"/>		
		quarterly	<input type="text"/>		
		semiannual	<input type="text"/>		
		annual	<input type="text"/>		
		single event	<input checked="" type="checkbox"/>		
	One single event is recommended.				
<b>Good Faith Efforts to Comply</b>					
	25.0% Reduction			\$625	
		Before NOV	NOV to EDPRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>		
	Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>		
	N/A	(mark with x)			
<b>Notes</b>	The Respondent achieved compliance on December 28, 2009.				
	<b>Violation Subtotal</b>			\$1,875	
<b>Economic Benefit (EB) for this violation</b>					
	<b>Statutory Limit Test</b>				
	<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	\$1,875	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$1,875	

### Economic Benefit Worksheet

**Respondent:** Round Rock Independent School District  
**Case ID No.:** 39068  
**Reg. Ent. Reference No.:** RN105569248  
**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				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)	\$100	17-Nov-2009	28-Dec-2009	0.11	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to submit notification of intent to commence construction to the Austin Regional Office and develop procedures to timely submit notifications. The date required is the investigation date and the 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

\$100

**TOTAL**

\$1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600355358 Round Rock Independent School District Classification: AVERAGE Rating: 3.43

Regulated Entity: RN105569248 WESTWOOD HIGH SCHOOL BASEBALL FIELDS Classification: AVERAGE BY DEFAULT Site Rating:3.01

ID Number(s): EDWARDS AQUIFER REGISTRATION 11-08061801

Location: 12400 MELLOW MEADOW DR, AUSTIN, WILLIAMSON CO. TX,

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: January 28, 2010

Agency Decision Requiring Compliance Enforcement

Compliance Period: January 28, 2005 to January 28, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Jecha Phone: 239 - 2576

## 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: 9/1/2009 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 01/14/2010 (782792)  
N/A
  - 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  
ROUND ROCK INDEPENDENT  
SCHOOL DISTRICT  
RN105569248

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

AGREED ORDER  
DOCKET NO. 2010-0151-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 Round Rock Independent School District ("the District") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the District appear before the Commission and together stipulate that:

1. The District owns and operates the Westwood High School baseball fields located at 12400 Mellow Meadow Drive in Austin, Williamson County, Texas (the "Site").
2. The District 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 District agree that the Commission has jurisdiction to enter this Agreed Order, and that the District is subject to the Commission's jurisdiction.
4. The District received notice of the violations alleged in Section II ("Allegations") on or about January 20, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the District of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Three Hundred Seventy-Five Dollars (\$9,375) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The District has paid Seven Thousand Five Hundred Dollars (\$7,500) of the administrative penalty and One Thousand Eight Hundred Seventy-Five Dollars (\$1,875) is deferred contingent upon the District'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 District fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the District 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 District 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 District developed procedures to timely submit notifications and submitted written notice to the TCEQ Austin Regional Office on December 28, 2009 that construction had commenced.
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 District 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 District is alleged to have:

1. Failed to obtain approval for a modification of a previously approved Edwards Aquifer Water Pollution Abatement Plan ("WPAP") prior to construction of the modification, in violation of 30 TEX. ADMIN. CODE § 213.4(j)(1) and WPAP No. 11-08061801 Standard Condition No. 6, as documented during an investigation conducted on November 17, 2009. Specifically, the WPAP, approved on August 11, 2008, was modified to include a second storm water outlet pipe for the water quality pond; however, the outlet pipe was installed prior to obtaining approval of the modification from the TCEQ.
2. Failed to comply with the terms of the approved WPAP, in violation of 30 TEX. ADMIN. CODE § 213.5(f)(1)(a)(i), WPAP No. 11-08061801 Standard Condition No. 7, as documented during an investigation conducted on November 17, 2009. Specifically, notification of intent to commence construction was not submitted to the Austin Regional Office at least 48 hours prior to commencing construction.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the District pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the District'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: Round Rock Independent School District, Docket No. 2010-0151-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 District shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, either remove and/or permanently seal the second storm water outlet pipe installed in the water quality pond or submit an administratively complete WPAP modification to obtain approval for any change to the water quality pond that has not been previously approved to:

Edwards Aquifer Protection Program  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning a WPAP modification within 30 days after the date of such requests or by any other deadline specified in writing; and
  - c. 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. 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the District. The District 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 District 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 District's failure to comply is not a violation of this Agreed Order. The District shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The District shall notify the Executive Director within seven days after the District 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 District shall be made in writing to the Executive Director. Extensions are not effective until the District 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 District 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by

facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the District, or three days after the date on which the Commission mails notice of the Order to the District, 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 4/23/2010

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

Mar 10, 2010  
\_\_\_\_\_  
Date

ALAN ALBERS  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Round Rock Independent School District

Exec Dir, Ops + Facilities  
\_\_\_\_\_  
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.