

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-1561-WQ-E **TCEQ ID:** RN101390953 **CASE NO.:** 40441
RESPONDENT NAME: City of Cedar Hill

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
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: City of Cedar Hill, 1527 Valley View Drive with an associated water main located off the southbound side of United States Highway 67 just south of Wintergreen Road, Cedar Hill, Dallas County</p> <p>TYPE OF OPERATION: Public water system</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 3, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Greg Porter, Deputy City Manager, 285 Uptown Boulevard, Building 100, Cedar Hill, Texas 75104 The Honorable Rob Franke, Mayor, City of Cedar Hill, 285 Uptown Boulevard, Building 100, Cedar Hill, Texas 75104 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 28, 2010</p> <p>Date of NOV/NOE Relating to this Case: August 26, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to provide timely notification to the TCEQ of an accidental discharge which caused pollution. Specifically, an accidental discharge of potable water on May 27, 2010 was not reported by the Respondent within 24 hours after the occurrence [TEX. WATER CODE § 26.039(b)].</p> <p>2) Failed to prevent the unauthorized discharge of a pollutant into or adjacent to water in the state. Specifically, a water main break on May 27, 2010 located off the southbound side of United States Highway 67 just south of Wintergreen Road discharged approximately 90,000 gallons of potable water into Steward Branch and then into Ten Mile Creek killing approximately 150 fish [TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$5,110</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,110</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken: The Executive Director recognizes that on May 28, 2010, the Respondent repaired the water main break and cleaned up and disposed of the dead fish.</p> <p>Ordering Provisions: The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all reporting/notification requirements are properly accomplished; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS Registration No. 0570036



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Sep-2010	Screening	21-Sep-2010	EPA Due	
	PCW	24-Sep-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Cedar Hill
Reg. Ent. Ref. No.	RN101390953
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	40441	Order Type	Findings
Docket No.	2010-1561-WQ-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		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** **\$6,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **6.0%** Enhancement **Subtotals 2, 3, & 7** **\$360**

Notes: Enhancement for three NOVs for dissimilar violations within the last five years.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts \$11
 Approx. Cost of Compliance \$2,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,110**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$5,110**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,110**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$5,110**

Screening Date 21-Sep-2010

Docket No. 2010-1561-WQ-E

PCW

Respondent City of Cedar Hill

Policy Revision 2 (September 2002)

Case ID No. 40441

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101390953

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs for dissimilar violations within the last five years.

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

Screening Date 21-Sep-2010
Respondent City of Cedar Hill
Case ID No. 40441
Reg. Ent. Reference No. RN101390953
Media [Statute] Water Quality
Enf. Coordinator Samuel Short
Violation Number

Docket No. 2010-1561-WQ-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Rule Cite(s)

Tex. Water Code § 26.039(b)

Violation Description

Failed to provide timely notification to the TCEQ of an accidental discharge which caused pollution. Specifically, an accidental discharge of potable water on May 27, 2010 was not reported by the Respondent within 24 hours after the occurrence.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(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 City of Cedar Hill
Case ID No. 40441
Reg. Ent. Reference No. RN101390953
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	28-May-2010	24-Apr-2011	0.91	\$11	n/a	\$11
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 update the Facility's operational guidance and conduct employee training to ensure that all reporting/notification requirements are properly accomplished. Date required is the date the notification was due 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

\$250

TOTAL

\$11

Screening Date 21-Sep-2010
Respondent City of Cedar Hill
Case ID No. 40441
Reg. Ent. Reference No. RN101390953
Media [Statute] Water Quality
Enf. Coordinator Samuel Short

Docket No. 2010-1561-WQ-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Failed to prevent the unauthorized discharge of a pollutant into or adjacent to water in the state. Specifically, a water main break on May 27, 2010 located off the southbound side of United States Highway 67 just south of Wintergreen Road discharged approximately 90,000 gallons of potable water into Steward Branch and then into Ten Mile Creek killing approximately 150 fish.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input checked="" 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 type="checkbox"/>

Violation Base Penalty

One daily event is recommended from the date the discharge occurred, May 27, 2010, to the date the repairs were completed, May 27, 2010.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	(mark with x)

Notes

The Respondent returned to compliance on May 28, 2010.

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 City of Cedar Hill
Case ID No. 40441
Req. Ent. Reference No. RN101390953
Media Water Quality
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	\$1,500	27-May-2010	27-May-2010	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	\$500	27-May-2010	28-May-2010	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Estimated cost to repair the water main break and cease the discharge. Date required is the date of the discharge and the final date is the date the repairs were completed. Estimated cost to clean up and dispose of the dead fish. Date required is the date of the discharge and the final date is the date the cleanup was completed.

Notes for DELAYED costs

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

\$2,000

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600645071 City of Cedar Hill	Classification: AVERAGE	Rating: 2.25
Regulated Entity:	RN101390953 CITY OF CEDAR HILL	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION WATER LICENSING LICENSE		0570036 0570036
Location:	1527 Valley View Drive with an associated water main located off the southbound side of United States Highway 67 just south of Wintergreen Road in Cedar Hill, Dallas County, Texas		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	September 21, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 21, 2005 to September 21, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Samuel Short</u>	Phone:	<u>(512) 239-5363</u>

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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	01/26/2006	(450724)
2	01/31/2008	(611875)
3	04/10/2008	(670313)
4	08/31/2010	(850227)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	01/24/2006 (450724)	CN600645071	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to compile and maintain current a thorough plant operations manual for operator review and reference.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to make available sanitary control easements for the Kingswood Well (G0570036D) at the time of inspection, or executive director approval for a substitute		

authorized in §290.41(c)(1)(F)(IV).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121
Description: Failure to compile and maintain an up-to-date chemical and microbiological monitoring plan.

Date: 01/25/2008 (611875) CN600645071

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)
Description: Failure to compile and maintain current a thorough plant operations manual for operator review and reference.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for the Kingswood Well (G0570036D) at the time of inspection, or executive director approval for a substitute authorized in §290.41(c)(1)(F)(iv).

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121
Description: Failure to compile and maintain an up-to-date chemical and microbiological monitoring plan.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.5 mg/L chloramine, as per agency regulations.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)
Description: Failure, by a retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity as compared to the most restrictive criteria of the commission's minimum capacity requirements in Chapter 290 T.A.C., to submit to the executive director a planning report that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area.

Date: 04/10/2008 (670313) CN600645071

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(2)
Description: BACT - NONACUTE MCL (5% OR >1)

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
CITY OF CEDAR HILL
RN101390953**

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

**AGREED ORDER
DOCKET NO. 2010-1561-WQ-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Cedar Hill (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water system at 1527 Valley View Drive with an associated water main located off the southbound side of United States Highway 67 just south of Wintergreen Road in Cedar Hill, Dallas County, Texas (the “Facility”).

2. The Respondent has discharged a pollutant into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on May 28, 2010, TCEQ staff documented that an accidental discharge of potable water on May 27, 2010 was not reported by the Respondent within 24 hours after the occurrence.
4. During an investigation on May 28, 2010, TCEQ staff documented that a water main break on May 27, 2010 located off the southbound side of United States Highway 67 just south of Wintergreen Road discharged approximately 90,000 gallons of potable water into Steward Branch and then into Ten Mile Creek killing approximately 150 fish.
5. The Respondent received notice of the violations on September 1, 2010.
6. The Executive Director recognizes that on May 28, 2010, the Respondent repaired the water main break and cleaned up and disposed of the dead fish.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to provide timely notification to the TCEQ of an accidental discharge which caused pollution, in violation of TEX. WATER CODE § 26.039(b).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the unauthorized discharge of a pollutant into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a).
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Five Thousand One Hundred Ten Dollars (\$5,110) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Five Thousand One Hundred Ten Dollar (\$5,110) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Five Thousand One Hundred Ten Dollars (\$5,110) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Cedar Hill, Docket No. 2010-1561-WQ-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all reporting/notification requirements are properly accomplished, in accordance with TEX. WATER CODE § 26.039(b); and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szellus
For the Executive Director

12/6/2010
Date

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

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]
Signature

11-1-10
Date

Greg Porter
Name (Printed or typed)
Authorized Representative of
City of Cedar Hill

Deputy City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.