CAPTION: Docket No. 2010-1625-WQ-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Arlington in Tarrant County; RN104950134; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Steve Villatoro, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1625-WQ-E **TCEQ ID:** RN104950134 **CASE NO.:** 40409

RESPONDENT NAME: City of Arlington

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Arlington Collection System, located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park, Arlington, Tarrant County

TYPE OF OPERATION: Wastewater collection system with an associated manhole

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 18, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: The Honorable Richard Cluck, M.D., Mayor, City of Arlington, 101 West Abram Street, Arlington, Texas 76010
Ms. Julia J. Hunt, Director of Water Utilities, City of Arlington, 101 West Abram Street, Arlington, Texas 76010
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** August 19, 2010 **Date of NOV/NOE Relating to this Case:** August 26, 2010 (NOE) **Background Facts:** This was a records review. **WATER** Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, a review of the Respondent's records indicated that on August 5, 2010, a blockage in the main line resulted in an overflow of an unknown amount of wastewater from a manhole located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park, into an unnamed tributary of the Trinity River, which resulted in approximately 200 dead fish [TEX. WATER CODE § 26.121(a)(1)].	**Total Assessed:** $7,500 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $7,500 **Total Paid to General Revenue:** $0 **Compliance History Classifications:** Person/CN - Average Site/RN - Poor **Major Source:** __ **Yes** _X_ **No** **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** Environmental receptors have been exposed to pollutants which exceed levels that are protective.	**Corrective Actions Taken:** The Executive Director recognizes that by August 6, 2010, the Respondent removed the blockage from the line located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park, cleaned the affected area and pumped the wastewater from the unnamed tributary back into the System. **Ordering Provisions:** The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Additional ID No(s).: N/A

Attachment A
Docket Number: 2010-1625-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Arlington
Penalty Amount:	Seven Thousand Five Hundred Dollars ($7,500)
SEP Offset Amount:	Seven Thousand Five Hundred Dollars ($7,500)
Type of SEP:	Custom
Location of SEP:	Tarrant County; Trinity River Basin

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the Administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall perform a cleanup in Lake Arlington in the Village Creek Watershed, a tributary of the West Fork Trinity River on the western border of Arlington just north of Interstate 20. The specific locations for the freshwater cleanup include 3512 Lake Powell and 3502 Yacht Club Court (the "project").

Respondent shall hire a salvage contractor to use heavy machinery such as a crane and barge for the removal of large amounts of debris from the lake such as fallen trees and sunken boats.

Respondent shall:

1. Advertise for competitive bids for a salvage contractor for the cleanup and will include the required enforcement statement (see Section 6. *Publicity*) in the advertisement;
2. Provide supervision to ensure proper and complete removal of debris; and
3. Provide documentation of proper disposal or recycling of all debris collected from the cleanup.

Respondent may not use the SEP Offset Amount for gratuities or inducements to volunteers for cleanup activities.

Respondent shall perform the project in accordance with all federal, state and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to do the project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the impact of unauthorized waste on our environment by the following:

- Improving water quality in Lake Arlington;
- Reducing flooding caused by the blockage of drainage outlets;
- Reducing the potential threat to wildlife, of which thousands die each year due to ingestion or entanglement;
- Decreasing damage to fishing and recreational boats; and
- Reducing injury to swimmers and bathers

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project and shall comply with all other provisions of this Attachment A. Respondent understands that it may cost more than the SEP Offset Amount to complete the project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the project, and shall complete the project in its entirety within 365 days after the effective date of this Agreed Order.

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the table below:

Table 1: Required Information

Days from Effective Order Date	Required Information
90	Actions taken during the previous 60-day period to implement the project
180	Actions taken during the previous 90-day period to implement the project
270	Actions taken during the previous 90-day period to implement the project
365	Notice of project completion

B. Final Report

Within 60 days after completion of the project, and in no case later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ which includes:

1. A summary total of the amount of all costs incurred;

2. An itemized list of expenditures and costs incurred;
3. Copies of invoices, paid receipts, cleared checks and payment records;
4. If Respondent requests to receive credit for overtime use of its own employees, time card records will be required and must include the following: first and last name of employee; rate of pay; total hours worked; and certified and confirmed by Respondent's Payroll section;
5. Map showing location(s) of cleanup(s) clearly marked;
6. List of items collected from cleanup site(s);
7. Copies of proof of advertisement of the cleanup event (**the advertisement must include a statement that the SEP was performed as a result of a TCEQ enforcement action**); and proof of publication of invitation for (and selection of competitive bids for the project, if applicable);
8. A certified/notarized statement of quantifiable environmental benefit. Respondent must quantify the environmental benefit of the project;
9. Photographs of the project in progress including items collected and after the project is completed;
10. Manifests sufficient to show proof of proper disposal and/or recycling of the collected items; and
11. Any information required in Section 3 and any additional information that will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all reports required by this SEP agreement and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide any additional information required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of SEP Offset Amount. Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
Assigned	30-Aug-2010					
PCW	14-Sep-2010	**Screening**	13-Sep-2010	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	City of Arlington		
Reg. Ent. Ref. No.	RN104950134		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40409	**No. of Violations**	1
Docket No.	2010-1625-WQ-E	**Order Type**	Findings
Media Program(s)	Water Quality	**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*: **$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **75.0%** Enhancement — *Subtotals 2, 3, & 7*: **$3,750**

Notes: Enhancement for two final agreed orders without denial of liability and repeat violator status.

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 $0

Approx. Cost of Compliance $2,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$7,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: **$7,500**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$7,500**

DEFERRAL — **0.0%** Reduction — *Adjustment*: **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY: **$7,500**

Screening Date 13-Sep-2010 **Docket No.** 2010-1625-WQ-E **PCW**

Respondent City of Arlington

Case ID No. 40409

Reg. Ent. Reference No. RN104950134

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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 (*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	2	50%
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) 50%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two final agreed orders without denial of liability and repeat violator status.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 75%

Screening Date 13-Sep-2010 **Docket No.** 2010-1625-WQ-E **PCW**

Respondent City of Arlington *Policy Revision 2 (September 2002)*

Case ID No. 40409 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN104950134

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during a record review conducted on August 19, 2010. Specifically, a review of the Respondent's records indicated that on August 5, 2010, a blockage in the main line resulted in an overflow of an unknown amount of wastewater from a manhole located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park, into an unnamed tributary of the Trinity River, which resulted in approximately 200 dead fish.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events: 1 — 1 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

One daily event is recommended for the date of the discharge (August 5, 2010). The discharge was ceased and immediate actions were taken to address the violation within 24 hours.

Good Faith Efforts to Comply

25.0% Reduction — $1,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes: The Respondent achieved compliance on August 6, 2010.

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $7,500

This violation Final Assessed Penalty (adjusted for limits) $7,500

Economic Benefit Worksheet

Respondent City of Arlington
Case ID No. 40409
Reg. Ent. Reference No. RN104950134
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$1,500	5-Aug-2010	6-Aug-2010	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	$1,000	5-Aug-2010	6-Aug-2010	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 costs to locate and remove the blockage, clean the affected area and pump the wastewater from the unnamed tributary back into the System. The date required is the date of the discharge. The final date is the date the discharge was stopped.						
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 $2,500

TOTAL $0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600131791	City of Arlington	Classification: AVERAGE	Rating: 4.44
Regulated Entity:	RN104950134	CITY OF ARLINGTON COLLECTION SYSTEM	Classification: POOR	Site Rating: 69.23
ID Number(s):	UTILITIES		REGISTRATION	P0034

Location: located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park, Arlington, Tarrant County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 13, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 13, 2005 to September 13, 2010

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? 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: YES

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 08/31/2007 ADMINORDER 2006-0720-WQ-E
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of wastewater.

Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent an unauthorized discharge of wastewater.

Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent an unauthorized discharge of wastewater.

Effective Date: 08/29/2008 ADMINORDER 2007-1776-WQ-E
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Description: Failure to prevent an unauthorized discharge.

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 03/02/2006 (456384)
2 05/17/2006 (465256)
3 08/11/2006 (419050)
4 08/11/2006 (497560)
5 09/18/2006 (461632)
6 10/26/2006 (517183)
7 02/08/2007 (609811)
8 10/03/2007 (595398)
9 08/21/2008 (700646)
10 09/24/2009 (777090)
11 08/26/2010 (849797)

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 CITY OF ARLINGTON RN104950134	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1625-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 Arlington ("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 they have 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 wastewater collection system, with an associated manhole located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park in Arlington, Tarrant County, Texas (the "System").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. During a record review conducted on August 19, 2010, TCEQ staff documented that on August 5, 2010, a blockage in the main line resulted in an overflow of an unknown amount of wastewater from a manhole located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park, into an unnamed tributary of the Trinity River, which resulted in approximately 200 dead fish.

4. The Respondent received notice of the violations on August 30, 2010.

5. The Executive Director recognizes that by August 6, 2010, the Respondent removed the blockage from the line located near 2101 Rosedale Lane in the Friendly Village Mobile Home Park, cleaned the affected area and pumped the wastewater from the unnamed tributary back into the System.

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 prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).

3. 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.

4. An administrative penalty in the amount of Seven Thousand Five Hundred Dollars ($7,500) 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. Seven Thousand Five Hundred Dollars ($7,500) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 Seven Thousand Five Hundred Dollars ($7,500) as set forth in Section II, Paragraph 4 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 Arlington, Docket No. 2010-1625-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II Paragraph 4 above, Seven Thousand Five Hundred Dollars ($7,500) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after The Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. 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.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7001 2510 0008 1516 4564

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date 3/24/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Arlington. I am authorized to agree to the attached Agreed Order on behalf of the City of Arlington, 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, the City of Arlington 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.

Julia J. Hunt
Signature

2-9-11
Date

Julia J. Hunt
Name (Printed or typed)
Authorized Representative of
City of Arlington

Director of Water Utilities
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

Attachment A
Docket Number: 2010-1625-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Arlington
Penalty Amount:	Seven Thousand Five Hundred Dollars ($7,500)
SEP Offset Amount:	Seven Thousand Five Hundred Dollars ($7,500)
Type of SEP:	Custom
Location of SEP:	Tarrant County; Trinity River Basin

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the Administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall perform a cleanup in Lake Arlington in the Village Creek Watershed, a tributary of the West Fork Trinity River on the western border of Arlington just north of Interstate 20. The specific locations for the freshwater cleanup include 3512 Lake Powell and 3502 Yacht Club Court (the "project").

Respondent shall hire a salvage contractor to use heavy machinery such as a crane and barge for the removal of large amounts of debris from the lake such as fallen trees and sunken boats.

Respondent shall:

1. Advertise for competitive bids for a salvage contractor for the cleanup and will include the required enforcement statement (see Section 6. *Publicity*) in the advertisement;
2. Provide supervision to ensure proper and complete removal of debris; and
3. Provide documentation of proper disposal or recycling of all debris collected from the cleanup.

Respondent may not use the SEP Offset Amount for gratuities or inducements to volunteers for cleanup activities.

Respondent shall perform the project in accordance with all federal, state and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to do the project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the impact of unauthorized waste on our environment by the following:

- Improving water quality in Lake Arlington;
- Reducing flooding caused by the blockage of drainage outlets;
- Reducing the potential threat to wildlife, of which thousands die each year due to ingestion or entanglement;
- Decreasing damage to fishing and recreational boats; and
- Reducing injury to swimmers and bathers

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project and shall comply with all other provisions of this Attachment A. Respondent understands that it may cost more than the SEP Offset Amount to complete the project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the project, and shall complete the project in its entirety within 365 days after the effective date of this Agreed Order.

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the table below:

Table 1: Required Information

Days from Effective Order Date	Required Information
90	Actions taken during the previous 60-day period to implement the project
180	Actions taken during the previous 90-day period to implement the project
270	Actions taken during the previous 90-day period to implement the project
365	Notice of project completion

B. Final Report

Within 60 days after completion of the project, and in no case later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ which includes:

1. A summary total of the amount of all costs incurred;

2. An itemized list of expenditures and costs incurred;
3. Copies of invoices, paid receipts, cleared checks and payment records;
4. If Respondent requests to receive credit for overtime use of its own employees, time card records will be required and must include the following: first and last name of employee; rate of pay; total hours worked; and certified and confirmed by Respondent's Payroll section;
5. Map showing location(s) of cleanup(s) clearly marked;
6. List of items collected from cleanup site(s);
7. Copies of proof of advertisement of the cleanup event (**the advertisement must include a statement that the SEP was performed as a result of a TCEQ enforcement action**); and proof of publication of invitation for (and selection of competitive bids for the project, if applicable);
8. A certified/notarized statement of quantifiable environmental benefit. Respondent must quantify the environmental benefit of the project;
9. Photographs of the project in progress including items collected and after the project is completed;
10. Manifests sufficient to show proof of proper disposal and/or recycling of the collected items; and
11. Any information required in Section 3 and any additional information that will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all reports required by this SEP agreement and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide any additional information required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of SEP Offset Amount. Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.