

Executive Summary – Enforcement Matter – Case No. 40947
Northampton Municipal Utility District
RN102845989
Docket No. 2011-0026-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Northampton Municipal Utility District, 24235 Gosling Road, on the north bank of Willow Creek approximately 1,200 feet upstream of the Gosling Road crossing of Willow Creek, Harris County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 13, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$36,465

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$36,465

Name of SEP: Bayou Land Conservancy fka Legacy Land Trust - Spring Creek Greenway Project

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40947
Northampton Municipal Utility District
RN102845989
Docket No. 2011-0026-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 5, 2010

Date(s) of NOE(s): December 15, 2010

Violation Information

1. Failed to comply with permitted effluent limits for ammonia nitrogen, total suspended solids, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010910001 Interim Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending June 30, 2010 [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010910001 Monitoring and Reporting Requirements No. 1 and Operational Requirements No. 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. Within 30 days after the effective date of this Agreed Order, submit a revised DMR for the monitoring period ending June 30, 2010 that includes the daily maximum concentration for *Escherichia coli*;
3. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance with Ordering Provision No. 2; and
4. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010910001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

**Executive Summary – Enforcement Matter – Case No. 40947
Northampton Municipal Utility District
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Docket No. 2011-0026-MWD-E**

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
Respondent: Mr. W. Paul Schneider, Second Vice President, Northampton Municipal Utility District, 6363 Woodway Street, Suite 800, Houston, Texas 77057
Mr. E.C. Thomas, President, Northampton Municipal Utility District, 6363 Woodway Street, Suite 800, Houston, Texas 77057
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0026-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Northampton Municipal Utility District
Penalty Amount:	Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465)
SEP Offset Amount:	Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465)
Type of SEP:	Pre-approved
Third-Party Recipient:	Bayou Land Conservancy fka Legacy Land Trust
Project Name:	Spring Creek Greenway Project
Location of SEP:	Harris or Montgomery Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to 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 contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to the **Bayou Land Conservancy** fka Legacy Land Trust for the *Spring Creek Greenway Project*. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, this SEP will focus on preserving multiple tracts of land comprising approximately 1,000 acres in the riparian corridor east of FM 2978 and west of U.S. 59. The Third-Party Recipient shall use SEP funds to acquire conservation easements on these tracts to provide permanent protection and stewardship of these lands and waters. The Third-Party Recipient shall also use SEP funds to conduct restoration work, including tree plantings, on these tracts, as needed. All property acquired in whole or in part with SEP funds must be preserved in perpetuity through a conservation easement that complies with Subchapter A, Chapter 183, Texas Natural Resources Code. The holder of the conservation easement must be an entity that meets the definition of “holder” under section 183.001(2), Texas Natural Resources Code. Additionally, the holder of the conservation easement may not also be the owner of the property. The Third-Party Recipient shall use only conservation easements that are substantially similar to the conservation easement described in the Supplement Environmental Project Agreement between Third-Party Recipient and TCEQ. The Third-Party Recipient shall not use or set aside SEP funds for legal defense of these properties without prior written approval of the TCEQ.

Northampton Municipal Utility District
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The preservation of open space in the Spring Creek Greenway Project area provides substantial environmental, economic, and community benefits for the region. Spring Creek is on the State's 303(d) list for water quality impairment due to bacteria. The sandy banks of Spring Creek have frequently been stripped of their native vegetation, increasing erosion potential and reducing wildlife habitat. However, for such a highly populated area, northern Harris and southern Montgomery Counties are still heavily forested. Protecting this forested area's trees, understory and wetlands helps absorb fertilizer, roadway runoff, and animal fecal matter from the nearby highly populated areas. Biofiltration through these vegetated areas protects Spring Creek from non-point source water pollution by slowing the flow of run-off and assisting particulates and their associated pollutants to settle. As pollutants settle out via washover through these forests, they are immobilized, decomposed and absorbed back into the soil, instead of running off into the waterway. By preserving the natural vegetated banks, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation before reaching the San Jacinto River, which feeds Lake Houston, a primary water source for Houston. Having vegetated areas remain protected along this area, while also increasing tree plantings through this project, will help protect this waterway from contaminants. Finally, the linking of open space enhances the conservation value of this greenway project by reversing land fragmentation.

C. Minimum Expenditure

Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Bayou Land Conservancy
Jennifer Lorenz, Executive Director
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Northampton Municipal Utility District
Agreed Order - Attachment A

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Sections 2 and 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 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 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
PO Box 13087
Austin, Texas 78711-3087

5. 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.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

Northampton Municipal Utility District
Agreed Order - Attachment A

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Dec-2010	Screening	29-Dec-2010	EPA Due	
	PCW	6-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Northampton Municipal Utility District		
Reg. Ent. Ref. No.	RN102845989		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40947	No. of Violations	4
Docket No.	2011-0026-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		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** **\$22,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **80.0%** Enhancement **Subtotals 2, 3, & 7** **\$17,680**

Notes: Enhancement for 16 months of self-reported effluent violations.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts \$952
Approx. Cost of Compliance \$10,025
**Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$39,780**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-8.3%** **Adjustment** **-\$3,315**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Reduction so that self-reported violations do not overly impact the penalty amount.

Final Penalty Amount **\$36,465**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$36,465**

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 **\$36,465**

Screening Date 29-Dec-2010

Docket No. 2011-0026-MWD-E

PCW

Respondent Northampton Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102845989

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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>)	16	80%
	Other written NOVs	0	0%
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%

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) 80%

>> **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

Enhancement for 16 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 80%

Screening Date 29-Dec-2010

Docket No. 2011-0026-MWD-E

PCW

Respondent Northampton Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102845989

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010910001 Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on November 5, 2010, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 62

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended for the months of January 2010 and July 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$951

Violation Final Penalty Total \$8,250

This violation Final Assessed Penalty (adjusted for limits) \$8,250

Economic Benefit Worksheet

Respondent Northhampton Municipal Utility District
Case ID No. 40947
Req. Ent. Reference No. RN102845989
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				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)	\$10,000	31-Oct-2009	25-Sep-2011	1.90	\$951	n/a	\$951

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. 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

\$10,000

TOTAL

\$951

Screening Date 29-Dec-2010

Docket No. 2011-0026-MWD-E

PCW

Respondent Northampton Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102845989

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010910001 Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on November 5, 2010, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

91 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended for the quarters containing the months of December 2009, April 2010, and June 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,300

This violation Final Assessed Penalty (adjusted for limits) \$3,300

Economic Benefit Worksheet

Respondent Northampton Municipal Utility District
Case ID No. 40947
Req. Ent. Reference No. RN102845989
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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1.

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 \$0

TOTAL \$0

Screening Date 29-Dec-2010

Docket No. 2011-0026-MWD-E

PCW

Respondent Northampton Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102845989

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010910001 Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on November 5, 2010, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	X		
Potential			

Percent 50%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

As a result of these discharges, human health or the environment has been exposed to pollutants which exceed protective levels.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3

93 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Three monthly events are recommended for the months of October 2009, May 2010, and August 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$24,750

This violation Final Assessed Penalty (adjusted for limits) \$24,750

Economic Benefit Worksheet

Respondent Northampton Municipal Utility District
Case ID No. 40947
Reg. Ent. Reference No. RN102845989
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1.

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

\$0

TOTAL

\$0

Screening Date 29-Dec-2010

Docket No. 2011-0026-MWD-E

PCW

Respondent Northampton Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 40947

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102845989

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17) and TPDES Permit No. WQ0010910001 Monitoring and Reporting Requirements No. 1 and Operational Requirements No. 2

Violation Description

Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending June 30, 2010, as documented during an investigation conducted on November 5, 2010. Specifically, the DMR did not include data for the daily maximum concentraion for Escherichia coli.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

More than 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

162 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$165

This violation Final Assessed Penalty (adjusted for limits) \$165

Economic Benefit Worksheet

Respondent Northampton Municipal Utility District
Case ID No. 40947
Req. Ent. Reference No. RN102845989
Media Water Quality
Violation No. 4

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	\$25	20-Jul-2010	4-Aug-2011	1.04	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a revised DMR for the monitoring period ending June 30, 2010. Date required is the date the DMR was due. 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 \$25

TOTAL \$1

EFFLUENT VIOLATION TABLE
Northampton Municipal Utility District
TPDES Permit No. WQ0010910001
Docket No. 2011-0026-MWD-E

Permitted Effluent Limits	Monitoring Period							
	October 2009	December 2009	January 2010	April 2010	May 2010	June 2010	July 2010	August 2010
NH₃-N Daily Avg. Conc. Limit = 3 mg/L	c	c	c	c	< 7.02	c	c	< 4.05
NH₃-N Daily Max. Conc. Limit = 10 mg/L	c	14.8	c	12.5	27.5	12.0	c	17.1
TSS Daily Max. Conc. Limit = 40 mg/L	c	43.0	c	c	c	c	c	c
<i>Escherichia coli</i> Daily Avg. Limit = 126 CFU/100 mL	> 485	c	<172	c	c	c	c	>1053
<i>Escherichia coli</i> Daily Max. Limit = 394 CFU/100 mL	> 2420	c	687	c	>2420	*	1733	> 2420

NH₃-N = ammonia nitrogen

TSS = total suspended solids

CFU/100 mL = colony forming units per 100 milliliters

conc. = concentration

* data not available for review

mg/L = milligrams per liter

c = compliant

avg. = average

max. = maximum

Compliance History

Customer/Respondent/Owner-Operator: CN600623995 Northampton Municipal Utility District Classification: AVERAGE Rating: 0.64
Regulated Entity: RN102845989 NORTHAMPTON MUD Classification: AVERAGE Site Rating: 0.64

ID Number(s): WASTEWATER PERMIT WQ0010910001
WASTEWATER EPA ID TX0058548
WASTEWATER LICENSING LICENSE WQ0010910001

Location: 24235 Gosling Road, on the north bank of Willow Creek
approximately 1,200 feet upstream of the Gosling
Road crossing of Willow Creek in Harris County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 29, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 29, 2005 to December 29, 2010

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

Name: Lanae Foard Phone: (512) 239-2554

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	03/03/2006	(473923)
2	01/03/2006	(473926)
3	01/27/2006	(473927)
4	04/03/2006	(501899)
5	05/02/2006	(501900)
6	06/21/2006	(501901)
7	09/29/2006	(524176)
8	09/29/2006	(524177)
9	09/29/2006	(524178)
10	03/09/2007	(582719)
11	03/09/2007	(582720)
12	03/09/2007	(582721)
13	04/30/2007	(582722)
14	03/09/2007	(582723)

15 07/11/2007 (603681)
 16 07/11/2007 (603682)
 17 07/11/2007 (603683)
 18 07/11/2007 (603684)
 19 07/11/2007 (603685)
 20 08/23/2007 (603686)
 21 09/24/2007 (603687)
 22 09/24/2007 (603688)
 23 10/10/2007 (603689)
 24 11/07/2007 (622371)
 25 04/06/2008 (674055)
 26 04/06/2008 (674056)
 27 08/19/2008 (688094)
 28 06/25/2008 (692351)
 29 06/25/2008 (692352)
 30 06/25/2008 (692353)
 31 06/25/2008 (692354)
 32 06/25/2008 (692355)
 33 07/24/2008 (692356)
 34 08/25/2008 (713456)
 35 09/10/2008 (713457)
 36 10/20/2008 (713458)
 37 11/20/2008 (729504)
 38 01/15/2009 (729505)
 39 02/13/2009 (752731)
 40 03/10/2009 (752732)
 41 04/14/2009 (752733)
 42 12/16/2008 (752734)
 43 05/12/2009 (770391)
 44 06/12/2009 (770392)
 45 02/11/2010 (810752)
 46 07/16/2009 (810753)
 47 08/21/2009 (810754)
 48 09/17/2009 (810755)
 49 10/16/2009 (810756)
 50 11/13/2009 (810757)
 51 12/17/2009 (810758)
 52 01/13/2010 (810759)
 53 03/11/2010 (832988)
 54 04/14/2010 (832989)
 55 05/14/2010 (832990)
 56 06/14/2010 (846925)
 57 07/16/2010 (861419)
 58 08/20/2010 (867676)
 59 12/15/2010 (873344)
 60 09/16/2010 (874646)
 61 10/20/2010 (882225)

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

Date: 12/31/2006 (582723) CN600623995
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

 Date: 03/31/2007 (603683) CN600623995
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

 Date: 01/31/2008 (692351) CN600623995
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

 Date: 07/31/2008 (713456) CN600623995
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2008 (713458) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2008 (729504) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2009 (810755) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2009 (810757) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2009 (810759) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2010 (810752) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (832990) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2010 (846925) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2010 (861419) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2010 (867676) CN600623995
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2010 (874646) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2010 (882225) CN600623995
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

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
NORTHAMPTON MUNICIPAL
UTILITY DISTRICT
RN102845989**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0026-MWD-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 Northampton Municipal Utility District (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent 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 wastewater treatment facility located at 24235 Gosling Road, on the north bank of Willow Creek approximately 1,200 feet upstream of the Gosling Road crossing of Willow Creek in Harris County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on November 5, 2010, TCEQ staff documented the following from self-reported discharge monitoring reports (“DMRs”):

EFFLUENT VIOLATION TABLE								
Permitted Effluent Limits	Monitoring Period							
	October 2009	December 2009	January 2010	April 2010	May 2010	June 2010	July 2010	August 2010
NH ₃ -N Daily Avg. Conc. Limit = 3 mg/L	c	c	c	c	< 7.02	c	c	< 4.05
NH ₃ -N Daily Max. Conc. Limit = 10 mg/L	c	14.8	c	12.5	27.5	12.0	c	17.1
TSS Daily Max. Conc. Limit = 40 mg/L	c	43.0	c	c	c	c	c	c
<i>Escherichia coli</i> Daily Avg. Limit = 126 CFU/100 mL	> 485	c	<172	c	c	c	c	>1053
<i>Escherichia coli</i> Daily Max. Limit = 394 CFU/100 mL	> 2420	c	687	c	>2420	*	1733	> 2420

NH₃-N = ammonia nitrogen
TSS = total suspended solids
CFU/100 mL = colony forming units per 100 milliliters
conc. = concentration
* data not available for review

mg/L = milligrams per liter
c = compliant
avg. = average
max. = maximum

4. During a record review on November 5, 2010, TCEQ staff documented that the DMR for the monitoring period ending June 30, 2010 did not include data for the daily maximum concentraion for *Escherichia coli*.
5. The Respondent received notice of the violations on December 20, 2010.

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 comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010910001 Interim Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit a complete DMR for the monitoring period ending June 30, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010910001 Monitoring and Reporting Requirements No. 1 and Operational Requirements No. 2.
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 Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465) 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. Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465) 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 Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465) 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: Northampton Municipal Utility District, Docket No. 2011-0026-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit a revised DMR for the monitoring period ending June 30, 2010, that includes the daily maximum concentration for *Escherichia coli*, in accordance with 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010910001 Monitoring and Reporting Requirements No. 1 and Operational Requirements No. 2;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a in accordance with Ordering Provision No. 3.d below;
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010910001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations, in accordance with Ordering Provision No. 3.d below; and
 - d. 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
8. 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.
9. 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.

10. 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.
11. 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



For the Executive Director

Date 6/8/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of Northampton Municipal Utility District. I am authorized to agree to the attached Agreed Order on behalf of Northampton Municipal Utility District, 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, Northampton Municipal Utility District 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

Date March 21, 2011

W. Paul Schneider

Name (Printed or typed)
Authorized Representative of
Northampton Municipal Utility District

Second Vice President

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: 2011-0026-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Northampton Municipal Utility District
Penalty Amount:	Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465)
SEP Offset Amount:	Thirty-Six Thousand Four Hundred Sixty-Five Dollars (\$36,465)
Type of SEP:	Pre-approved
Third-Party Recipient:	Bayou Land Conservancy fka Legacy Land Trust
Project Name:	Spring Creek Greenway Project
Location of SEP:	Harris or Montgomery Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to 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 contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to the **Bayou Land Conservancy** fka Legacy Land Trust for the *Spring Creek Greenway Project*. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, this SEP will focus on preserving multiple tracts of land comprising approximately 1,000 acres in the riparian corridor east of FM 2978 and west of U.S. 59. The Third-Party Recipient shall use SEP funds to acquire conservation easements on these tracts to provide permanent protection and stewardship of these lands and waters. The Third-Party Recipient shall also use SEP funds to conduct restoration work, including tree plantings, on these tracts, as needed. All property acquired in whole or in part with SEP funds must be preserved in perpetuity through a conservation easement that complies with Subchapter A, Chapter 183, Texas Natural Resources Code. The holder of the conservation easement must be an entity that meets the definition of “holder” under section 183.001(2), Texas Natural Resources Code. Additionally, the holder of the conservation easement may not also be the owner of the property. The Third-Party Recipient shall use only conservation easements that are substantially similar to the conservation easement described in the Supplement Environmental Project Agreement between Third-Party Recipient and TCEQ. The Third-Party Recipient shall not use or set aside SEP funds for legal defense of these properties without prior written approval of the TCEQ.

Northampton Municipal Utility District
Agreed Order - Attachment A

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The preservation of open space in the Spring Creek Greenway Project area provides substantial environmental, economic, and community benefits for the region. Spring Creek is on the State's 303(d) list for water quality impairment due to bacteria. The sandy banks of Spring Creek have frequently been stripped of their native vegetation, increasing erosion potential and reducing wildlife habitat. However, for such a highly populated area, northern Harris and southern Montgomery Counties are still heavily forested. Protecting this forested area's trees, understory and wetlands helps absorb fertilizer, roadway runoff, and animal fecal matter from the nearby highly populated areas. Biofiltration through these vegetated areas protects Spring Creek from non-point source water pollution by slowing the flow of run-off and assisting particulates and their associated pollutants to settle. As pollutants settle out via washover through these forests, they are immobilized, decomposed and absorbed back into the soil, instead of running off into the waterway. By preserving the natural vegetated banks, turbidity is reduced, and source water for recreation and human consumption is protected from further degradation before reaching the San Jacinto River, which feeds Lake Houston, a primary water source for Houston. Having vegetated areas remain protected along this area, while also increasing tree plantings through this project, will help protect this waterway from contaminants. Finally, the linking of open space enhances the conservation value of this greenway project by reversing land fragmentation.

C. Minimum Expenditure

Respondent shall contribute at least the SEP offset amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Bayou Land Conservancy
Jennifer Lorenz, Executive Director
10330 Lake Road, Building J
Houston, Texas 77070

3. Records and Reporting

Northampton Municipal Utility District
Agreed Order - Attachment A

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP offset amount and submittal of the required reporting described in Sections 2 and 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 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 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
PO Box 13087
Austin, Texas 78711-3087

5. 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.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

Northampton Municipal Utility District
Agreed Order - Attachment A

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