Executive Summary – Enforcement Matter – Case No. 40909
San Antonio Water System
RN103119020, RN100851518
Docket No. 2010-2084-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:

Dos Rios Water Recycling Center, RN103119020, located near the intersection of East Ashley Road and Mission Parkway, San Antonio, Bexar County ("Facility 1");

Salado Creek Water Recycling, RN100851518, near the 6100 block of Walzem Road, immediately upstream of the Eisenhauer Bridge over Rosillo Creek, Bexar County ("Facility 2").

Type of Operation:
Wastewater treatment facility including a collection line
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: $22,500
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: $22,500
Name of SEP: Texas State University River Systems Institute-Continuous Water Quality Monitoring Network
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

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Docket No. 2010-2084-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: October 20, 2010 and January 7, 2011
Date(s) of NOE(s): December 7, 2010 and February 7, 2011

Violation Information

1. Failed to prevent the unauthorized discharge of municipal wastewater into water in the state. On October 20, 2010, a broken 30-inch force main located near the intersection of East Ashley Road and Mission Parkway discharged an estimated 4,442,000 gallons of wastewater. Approximately 226,000 gallons of wastewater entered the San Antonio River, resulting in a fish kill of approximately 100 fish [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010137033, Permit Condition No. 2.g.].

2. Failed to prevent the unauthorized discharge of municipal wastewater into water in the state. On January 7, 2011, two manholes located immediately upstream of Eisenhauer Bridge over Rosillo Creek overflowed due to grit and grease blockages. An estimated 18,000 gallons of wastewater was discharged into Rosillo Creek, resulting in a fish kill of approximately 25 fish [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010137008, Permit Condition No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. By October 22, 2010, stopped the discharge and minimized the flow of wastewater into the San Antonio River by constructing containment dams around the discharge area;

2. By October 25, 2010, returned the contained wastewater to the collection system;

3. By October 27, 2010, repaired the force main;

4. By November 4, 2010, completed site restoration activities;

5. By January 7, 2011, ceased the discharge from the manholes, contained the spill, and returned the contained wastewater to the collection system; and

6. By January 7, 2011, disinfected the affected area, flushed the creek with fresh water, and cleaned and televised the sewer lines.

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Docket No. 2010-2084-MWD-E

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

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. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; 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. Steve Clouse, Chief Operating Officer, San Antonio Water System, 2800 U.S. Highway 281 North, San Antonio, Texas 78212
Respondent's Attorney: N/A

Attachment A
Docket Number: 2010-2084-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**San Antonio Water System**
Penalty Amount:	**Twenty-Two Thousand Five Hundred Dollars ($22,500)**
SEP Offset Amount:	**Twenty-Two Thousand Five Hundred Dollars ($22,500)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas State University River Systems Institute-*Continuous Water Quality Monitoring Network***
Location of SEP:	**Bexar County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to ***Texas State University*** for the ***Continuous Water Quality Monitoring Network*** as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP monies will be used by the Recipient to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a "real time" monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

The 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, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas State University - San Marcos
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &
Director of Edwards Aquifer Research and Data Center
601 University Drive JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the 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 to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the 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 may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the 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

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

7. 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	7-Dec-2010				
PCW	28-Dec-2010	Screening	28-Dec-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	San Antonio Water System		
Reg. Ent. Ref. No.	RN103119020		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40909	No. of Violations	1
Docket No.	2010-2084-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		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* **$10,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **70.0%** Enhancement — *Subtotals 2, 3, & 7* **$7,000**

Notes: Enhancement for 11 months of self-reported effluent violations and three NOVs with same/similar 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* **$2,500**

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

Total EB Amounts $466
Approx. Cost of Compliance $226,687

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$14,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$14,500**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$14,500**

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 **$14,500**

Screening Date 28-Dec-2010 **Docket No.** 2010-2084-MWD-E **PCW**

Respondent San Antonio Water System *Policy Revision 2 (September 2002)*

Case ID No. 40909 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN103119020

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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*)	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 70%

>> 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 11 months of self-reported effluent violations and three NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date 28-Dec-2010 **Docket No.** 2010-2084-MWD-E **PCW**

Respondent San Antonio Water System *Policy Revision 2 (September 2002)*

Case ID No. 40909 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN103119020

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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 Permit No. WQ0010137033, Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharge of municipal wastewater into water in the state, as documented during an investigation conducted on October 20, 2010. On October 20, 2010, a broken 30-inch force main located near the intersection of East Ashley Road and Mission Parkway discharged an estimated 4,442,000 gallons of wastewater. Approximately 226,000 gallons of wastewater entered the San Antonio River, resulting in a fish kill of approximately 100 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 protective levels as a result of this violation.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events 2 — 2 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

Two daily events are recommended from the date the discharge began (October 20, 2010) to the date the discharge was stopped and contained (October 22, 2010).

Good Faith Efforts to Comply

25.0% Reduction — $2,500

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

Notes: The Respondent completed all corrective actions by November 4, 2010.

Violation Subtotal $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $466

Statutory Limit Test

Violation Final Penalty Total $14,500

This violation Final Assessed Penalty (adjusted for limits) $14,500

Economic Benefit Worksheet

Respondent San Antonio Water System
Case ID No. 40909
Reg. Ent. Reference No. RN103119020
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	$226,687	20-Oct-2010	4-Nov-2010	0.04	$466	n/a	$466
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs Actual cost (provided by the Respondent) to stop the discharge, construct containment dams, repair the line, and return discharged wastewater to the collection system. Date required is the date of the discharge. Final date is the date the actions were completed.

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 $226,687

TOTAL $466

Compliance History

Customer/Respondent/Owner-Operator:	CN600529069	San Antonio Water System	Classification: AVERAGE	Rating: 3.27
Regulated Entity:	RN103119020	DOS RIOS WATER RECYCLING CENTER	Classification: AVERAGE	Site Rating: 0.62

ID Number(s):	WASTEWATER	PERMIT	WQ0010137033
	WASTEWATER	EPA ID	TX0077801
	WASTEWATER LICENSING	LICENSE	WQ0010137033

Location: Located near the intersection of East Ashley Road and Mission Parkway, San Antonio, Bexar County, Tx.

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: December 28, 2010

Agency Decision Requiring Compliance History: Enforcement

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

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

Name: Merrilee Hupp Phone: (512) 239 - 4490

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	04/13/2006	(457510)
2	02/15/2006	(585507)
3	02/22/2007	(585508)
4	03/17/2006	(585509)
5	03/15/2007	(585510)
6	01/19/2006	(585512)
7	03/15/2007	(585513)
8	05/18/2006	(585515)
9	06/16/2006	(585517)
10	06/20/2007	(585518)
11	06/20/2007	(585519)
12	01/19/2006	(585521)
13	07/20/2007	(585522)
14	08/16/2006	(585524)
15	09/20/2006	(585526)
16	10/16/2006	(585528)
17	11/15/2006	(585530)
18	12/15/2006	(585532)
19	01/20/2006	(585533)
20	12/15/2006	(585534)
21	08/20/2007	(608535)

22	05/30/2008	(641682)
23	02/19/2008	(730498)
24	03/19/2008	(730499)
25	03/19/2008	(730500)
26	05/17/2007	(730501)
27	05/19/2008	(730502)
28	06/17/2008	(730503)
29	07/17/2008	(730504)
30	06/17/2008	(730505)
31	08/18/2008	(730506)
32	09/20/2007	(730507)
33	09/18/2008	(730508)
34	10/19/2007	(730509)
35	08/18/2008	(730510)
36	11/19/2007	(730511)
37	11/19/2008	(730512)
38	01/02/2008	(730513)
39	12/18/2008	(730514)
40	01/18/2008	(730515)
41	08/18/2008	(730516)
42	02/20/2009	(753714)
43	03/20/2009	(771129)
44	03/20/2009	(771130)
45	04/20/2009	(771131)
46	03/20/2009	(771132)
47	01/28/2010	(780358)
48	02/18/2010	(813264)
49	05/27/2009	(813265)
50	07/23/2009	(813266)
51	08/26/2009	(813267)
52	09/18/2009	(813268)
53	10/19/2009	(813269)
54	11/23/2009	(813270)
55	12/17/2009	(813271)
56	01/15/2010	(813272)
57	05/27/2010	(824451)
58	03/17/2010	(833887)
59	02/18/2010	(833888)
60	05/18/2010	(833889)
61	06/17/2010	(847195)
62	09/14/2010	(858207)
63	02/18/2010	(861654)
64	09/27/2010	(864390)
65	08/17/2010	(868007)
66	12/07/2010	(876942)

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

Date: 12/31/2006 (585534) CN600529069
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: 01/31/2007 (585508) CN600529069
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: 05/31/2007 (585518) CN600529069

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: 06/30/2007 (585522) CN600529069

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: 07/31/2007 (608535) CN600529069

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: 08/31/2007 (730507) CN600529069

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: 12/31/2007 (730515) CN600529069

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: 03/31/2008 (730500) CN600529069

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: 01/31/2009 (753714) CN600529069

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: 09/30/2009 (813269) CN600529069

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: 01/27/2010 (780358) CN600529069

Self Report? NO Classification Minor
Citation: TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Monitoring and Limitations PERMIT
Description: Failure to comply with the self-reported permit final effluent limitations.
Date 01/31/2010 (813264) CN600529069
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 05/28/2010 (824451) CN600529069
Self Report? NO Classification Moderate
Citation: TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Date 08/02/2010 (864390) CN600529069
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements 1. PERMIT
TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of wastewater from the San Antonio Water Systems Dos Rios collection line located near Mission Road and the San Antonio River on July 30, 2010.

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

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	14-Feb-2011				
PCW	14-Feb-2011	Screening	15-Feb-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	San Antonio Water System		
Reg. Ent. Ref. No.	RN100851518		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40909	No. of Violations	1
Docket No.	2010-2084-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		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 — **85.0%** Enhancement — *Subtotals 2, 3, & 7* **$4,250**

Notes: Enhancement for one month of self-reported effluent violations, seven NOVs with same/similar violations, one order with denial of liability and one order without denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts $0
Approx. Cost of Compliance $6,451

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$8,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$8,000**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$8,000**

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 **$8,000**

Screening Date 15-Feb-2011 **Docket No.** 2010-2084-MWD-E **PCW**

Respondent San Antonio Water System

Policy Revision 2 (September 2002)

Case ID No. 40909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100851518

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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*)	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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) 85%

>> 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 one month of self-reported effluent violations, seven NOVs with same/similar violations, one order with denial of liability and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

Screening Date 15-Feb-2011 **Docket No.** 2010-2084-MWD-E **PCW**

Respondent San Antonio Water System *Policy Revision 2 (September 2002)*

Case ID No. 40909 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100851518

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

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 Permit No. WQ0010137008, Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharge of municipal wastewater into water in the state, as documented during an investigation conducted on January 7, 2011. On January 7, 2011, two manholes located immediately upstream of Eisenhauer Bridge over Rosillo Creek overflowed due to grit and grease blockages. An estimated 18,000 gallons of wastewater was discharged into Rosillo Creek, resulting in a fish kill of approximately 25 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 protective levels 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 from the date the discharge began (January 7, 2011) to the date actions were taken to address the discharge (January 7, 2011).

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 returned to compliance by January 7, 2011.

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $8,000

This violation Final Assessed Penalty (adjusted for limits) $8,000

Economic Benefit Worksheet

Respondent San Antonio Water System
Case ID No. 40909
Reg. Ent. Reference No. RN100851518
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)				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	$6,451	7-Jan-2011	7-Jan-2011	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: Actual cost (provided by the Respondent) to stop and contain the discharge, return the contained wastewater to the collection system, disinfect the affected area, flush the creek with fresh water, and clean and televise the sewer line. Date required is the date of the discharge. Final date is the date the actions were taken.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $6,451

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator:	CN600529069	San Antonio Water System	Classification: AVERAGE	Rating: 3.27
Regulated Entity:	RN100851518	SALADO CREEK WATER RECYCLING	Classification: AVERAGE	Site Rating: 1.33

ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BG1126T
	WASTEWATER	PERMIT	WQ0010137008
	WASTEWATER	EPA ID	TX0052647
	STORMWATER	PERMIT	TXR05P891
	WASTEWATER LICENSING	LICENSE	WQ0010137008

Location: NEAR THE 6100 BLOCK OF WALZEM ROAD, IMMEDIATELY UPSTREAM OF THE EISENHAUER BRIDGE OVER ROSILLO CREEK, BEXAR CO., TX

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: February 09, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 09, 2006 to February 09, 2011

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

Name: Merrilee Hupp Phone: (512) 239 - 4490

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.

Effective Date: 11/18/2006 ADMINORDER 2006-0636-MWD-E

Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Description: Failure to prevent unauthorized discharges from the Afton Oaks Lift station / Force Main entering an unnamed tributary of Lorence Creek, which is located over the Edwards Aquifer recharge zone.

Effective Date: 12/04/2010 ADMINORDER 2010-1007-MWD-E

Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Permit Conditions No. 2.g PERMIT
Description: Failed to prevent the unauthorized discharge of municipal wastewater into water in the state.

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(9)(A)
Rqmt Prov: Monitoring and Reporting Req. No. 7.a PERMIT
Description: Failed to report an unauthorized discharge orally or by facsimile transmission within 24 hours of becoming aware the 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	05/10/2006	(459207)
2	05/08/2006	(462666)
3	02/15/2006	(581158)
4	02/22/2007	(581159)
5	03/17/2006	(581160)
6	03/15/2007	(581161)
7	04/19/2006	(581163)
8	03/15/2007	(581164)
9	05/18/2006	(581237)
10	06/16/2006	(581239)
11	06/20/2007	(581240)
12	04/19/2006	(581242)
13	07/20/2007	(581243)
14	08/31/2006	(581245)
15	09/20/2006	(581247)
16	10/16/2006	(581249)
17	11/15/2006	(581251)
18	08/30/2006	(581254)
19	08/20/2007	(608104)
20	02/19/2008	(729070)
21	03/19/2008	(729071)
22	03/19/2008	(729072)
23	04/16/2008	(729073)
24	05/17/2007	(729074)
25	05/19/2008	(729075)
26	06/17/2008	(729076)
27	06/17/2008	(729077)

28 08/18/2008 (729078)

29 09/20/2007 (729079)

30 09/18/2008 (729080)

31 10/19/2007 (729081)

32 10/17/2008 (729082)

33 11/19/2007 (729083)

34 11/19/2008 (729084)

35 01/02/2008 (729085)

36 12/18/2008 (729086)

37 01/16/2008 (729087)

38 08/18/2008 (729088)

39 02/20/2009 (769902)

40 03/20/2009 (769903)

41 04/20/2009 (769904)

42 03/20/2009 (769905)

43 12/15/2006 (769906)

44 05/25/2010 (801114)

45 05/26/2010 (803532)

46 02/18/2010 (809363)

47 05/27/2009 (809364)

48 07/23/2009 (809365)

49 08/26/2009 (809366)

50 09/18/2009 (809367)

51 10/19/2009 (809368)

52 11/23/2009 (809369)

53 12/17/2009 (809370)

54 12/17/2009 (809371)

55 08/04/2010 (825833)

56 04/12/2010 (832551)

57 12/18/2009 (832552)

58 06/17/2010 (846791)

59 07/19/2010 (861311)

60 10/22/2010 (865076)

61 10/07/2010 (866147)

62 03/17/2010 (867473)

63 08/17/2010 (867474)

64 12/06/2010 (879237)

65 01/26/2011 (885899)

66 01/03/2011 (886826)

67 01/26/2011 (887553)

68 02/07/2011 (890777)

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

Date: 07/31/2006 (581245)CN600529069
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: 04/02/2010 (803532) CN600529069
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements 1 PERMIT
Description: Failure of the San Antonio Water System to prevent the unauthorized discharge of wastewater from its collection system located near 10700 Nacogdoches Road in San Antonio, Texas on April 1, 2010.

Date: 08/05/2010 (825833) CN600529069
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Operational Requirements 1 PERMIT
Description: Failure of the permittee, San Antonio Water System, to prevent the unauthorized discharge of wastewater from its collection system located near 11311 Sir Winston into the dry Salado Creek bed.

Date: 10/13/2010 (865076) CN600529069
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirments (1) PERMIT
Description: Failure of permittee to prevent the unauthorized discharge of municipal wastewater from the collection system located over the Edwards Aquifer Recharge Zone.

Date: 10/15/2010 (866147) CN600529069
Self Report? NO Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure of the permittee to prevent the unauthorized discharge of wastewater from its collection system located near Holbrook Rd and IH 35 in Bexar County,

Texas.

Date: 12/10/2010 (879237) CN600529069

Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Description: Failure by the San Antonio Water Systems to prevent the unauthorized discharge of wastewater from the Feathercrest lift station #11 located at 3847 Thousand Oaks in San Antonio, Texas on November 10, 2010.

Date: 01/26/2011 (885899) CN600529069
Self Report? NO Classification: Moderate
Citation: Operational Requirements PERMIT
TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of wastewater from the Salado Creek collection system. The permittee reported approximately 137 overflows during the previous year.

Date: 01/27/2011 (887553) CN600529069
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121
Description: Failure of the permittee to prevent the unauthorized discharge of wastewater from its collection lines.

F. Environmental audits.

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
SAN ANTONIO WATER SYSTEM	**§**	
RN103119020 and RN100851518	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-2084-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 the San Antonio Water System ("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 including a collection line located near the intersection of East Ashley Road and Mission Parkway in San Antonio, Bexar County, Texas ("Facility 1").

2. The Respondent owns and operates a wastewater treatment facility with associated manholes near the 6100 block of Walzem Road, immediately upstream of the Eisenhauer Bridge over Rosillo Creek, in Bexar County, Texas ("Facility 2").

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

4. During an investigation on October 20, 2010, TCEQ staff documented a discharge of an estimated 4,442,000 gallons of wastewater from a broken 30-inch force main located near the intersection of East Ashley Road and Mission Parkway. Approximately 226,000 gallons of wastewater entered the San Antonio River, resulting in a fish kill of approximately 100 fish.

5. During an investigation on January 7, 2011, TCEQ staff documented a discharge from two manholes located immediately upstream of the Eisenhauer Bridge over Rosillo Creek. An estimated 18,000 gallons of wastewater entered Rosillo Creek, resulting in a fish kill of approximately 25 fish.

6. The Respondent received notices of the violations on December 10, 2010, and February 10, 2011.

7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facilities:

   a. By October 22, 2010, stopped the discharge and minimized the flow of wastewater into the San Antonio River by constructing containment dams around the discharge area;

   b. By October 25, 2010, returned the contained wastewater to the collection system;

   c. By October 27, 2010, repaired the force main;

   d. By November 4, 2010, completed site restoration activities;

   e. By January 7, 2011, ceased the discharge from the manholes, contained the spill, and returned the contained wastewater to the collection system; and

   f. By January 7, 2011, disinfected the affected area, flushed the creek with fresh water, and cleaned and televised the sewer lines.

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. 4, the Respondent failed to prevent the unauthorized discharge of municipal wastewater into water in the state, in violation of

TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010137033, Permit Condition No. 2.g.

3. As evidenced by Findings of Fact No. 5, the Respondent failed to prevent the unauthorized discharge of municipal wastewater into water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010137008, Permit Condition No. 2.g.

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 Twenty-Two Thousand Five Hundred Dollars ($22,500) 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. Twenty-Two Thousand Five Hundred Dollars ($22,500) 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 Twenty-Two Thousand Five Hundred Dollars ($22,500) 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: San Antonio Water System, Docket No. 2010-2084-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, Twenty-Two Thousand Five Hundred Dollars ($22,500) 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. 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 Facilities' 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving,

imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 5/23/2011
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of San Antonio Water System. I am authorized to agree to the attached Agreed Order on behalf of San Antonio Water System, 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, San Antonio Water System 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.

Steve Clouse April 5, 2011
Signature Date

Steve Clouse Chief Operating Officer
Name (Printed or typed) Title
Authorized Representative of
San Antonio Water System

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: 2010-2084-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**San Antonio Water System**
Penalty Amount:	**Twenty-Two Thousand Five Hundred Dollars ($22,500)**
SEP Offset Amount:	**Twenty-Two Thousand Five Hundred Dollars ($22,500)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas State University River Systems Institute-*Continuous Water Quality Monitoring Network***
Location of SEP:	**Bexar County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to ***Texas State University*** for the ***Continuous Water Quality Monitoring Network*** as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP monies will be used by the Recipient to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a "real time" monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

The 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, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas State University - San Marcos
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &
Director of Edwards Aquifer Research and Data Center
601 University Drive JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the 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 to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If the 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 may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the 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

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

7. 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.