Executive Summary – Enforcement Matter – Case No. 41091
Texas Parks and Wildlife Department
RN101282317
Docket No. 2011-0221-MWD-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MWD
Small Business:
No
Location(s) Where Violation(s) Occurred:
TPWD Abilene State Park, approximately 0.4 mile east of Farm-to-Market Road 89 on Park Road 32 and approximately four miles southwest of the intersection of Farm-to-Market Road 89 and Farm-to-Market Road 613, Taylor County
Type of Operation:
Recreational vehicle park and camp
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: July 8, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $1,380
Amount Deferred for Expedited Settlement: $276
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: $1,104
Name of SEP: Lake Abilene Southwest Shore Erosion Control 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. 41091
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Docket No. 2011-0221-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: December 1, 2010
Date(s) of NOE(s): January 21, 2011

Violation Information

Failed to comply with permitted effluent limits for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011234001, Effluent Limitation and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent returned to compliance with permitted effluent limits by March 31, 2010 by cleaning the chlorine contact chamber.

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: Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
Respondent: Dan R. Sholly, Deputy Director, State Parks Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744
B. Orvaline Okerstrom, Park Manager, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0221-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Parks and Wildlife Department
Penalty Amount:	One Thousand One Hundred Four Dollars ($1,104)
SEP Offset Amount:	One Thousand One Hundred Four Dollars ($1,104)
Type of SEP:	Custom
Project Name:	*Lake Abilene Southwest Shore Erosion Control Project*
Location of SEP:	Taylor County

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 perform an erosion control project along the shore of Lake Abilene in Taylor County, Texas, to reduce siltation in the Fort Phantom Lake Watershed (the "Project"). The bank of Lake Abilene has eroded approximately seven feet within the past five years. The Project will consist of the installation of slope protection to eliminate ongoing erosion of Lake Abilene's shoreline. Slope stabilization will be addressed by the installation of R-Rap walls (also referred to as Bag Wall installation). The R-Rap wall installation will begin at N32°14'00.5" W99°53'41.4" and will continue 140 yards west to N32°14'01.7" W99°53'43.9". The SEP Offset Amount will be used to purchase R-Rap materials. No SEP Offset Amount may be used to pay labor costs for Park Rangers that will provide the labor for the Project during normal working hours.

Respondent shall perform the project in accordance with all federal, state, and local environmental laws and regulations. Respondent agrees to obtain any and all required permit(s) prior to commencement of the project, including a Nationwide Permit from the U.S. Corps of Engineers; the Marl, Sand, Gravel, Shell or Mudshell Permit from the Texas Parks and Wildlife Department; and rights of way easement authorizations. Respondent shall spend the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

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

b. Environmental Benefit

The SEP will provide a discernible environmental benefit by stabilizing the shoreline of Lake Abilene thus preventing or significantly reducing further erosion, sedimentation, and siltation. Continued erosion will lead to high sediment loads, silting, and a decrease in the holding capacity of the lake. The project will benefit and protect the water quality of Lake Abilene and the Fort Phantom Lake Watershed.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

a. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2., *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project, including copies of Rights-of-Way Easement Authorizations and any and all permits obtained pursuant to Section 1.A., above
270	Actions taken during previous 90-day period to implement the project, including photographs showing work completed to date
365	Notice of SEP completion

b. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which included:

1. An itemized list of expenditures and total of costs incurred to complete the project;
2. Copies of invoices, paid receipts, and cleared checks corresponding to the itemized list required in paragraph 3.B.1., above;
3. Verification of completion of the project, including Record Drawings;
4. Photographs of the completed project;
5. A map identifying the location of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
6. A certified/notarized statement of quantifiable environmental benefits produced by the project; and
7. Any information requested in Section 3 and any additional information that will demonstrate compliance with this SEP Attachment A.

c. Address

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

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

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

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A 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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP 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	24-Jan-2011					
PCW	27-Jan-2011	**Screening**	27-Jan-2011	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Parks and Wildlife Department		
Reg. Ent. Ref. No.	RN101282317		
Facility/Site Region	3-Abilene	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	41091	**No. of Violations**	1
Docket No.	2011-0221-MWD-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Jeremy Escobar
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum $0 **Maximum** $10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **66.0%** Enhancement — *Subtotals 2, 3, & 7* **$660**

Notes: Enhancement for 11 months of self-reported effluent violations, one NOV with same/similar violations, and three NOVs with dissimilar 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* **$250**

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

Total EB Amounts $31
Approx. Cost of Compliance $2,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$1,410**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-2.1%** — *Adjustment* **-$30**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction to prevent double enhancement of the penalty for self-reported violations.

Final Penalty Amount **$1,380**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$1,380**

DEFERRAL **20.0%** Reduction — *Adjustment* **-$276**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$1,104**

Screening Date 27-Jan-2011 **Docket No.** 2011-0221-MWD-E **PCW**

Respondent Texas Parks and Wildlife Department

Case ID No. 41091

Reg. Ent. Reference No. RN101282317

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	12	60%
	Other written NOVs	3	6%
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) 66%

>> 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, one NOV with same/similar violations, and three NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 66%

Screening Date 27-Jan-2011 **Docket No.** 2011-0221-MWD-E **PCW**

Respondent Texas Parks and Wildlife Department *Policy Revision 2 (September 2002)*

Case ID No. 41091 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101282317

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011234001, Effluent Limitation and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on December 1, 2010, and depicted in the attached 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: Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 90 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction — $250

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

Notes: The Respondent returned to compliance by March 31, 2010.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $31

Statutory Limit Test

Violation Final Penalty Total $1,380

This violation Final Assessed Penalty (adjusted for limits) $1,380

Economic Benefit Worksheet

Respondent Texas Parks and Wildlife Department
Case ID No. 41091
Req. Ent. Reference No. RN101282317
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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)	$2,500	31-Dec-2009	31-Mar-2010	0.25	$31	n/a	$31
Notes for DELAYED costs	Estimated cost to clean the chlorine contact chamber. Date required is the first date of non-compliance. The final date is the date the system returned to 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 $2,500

TOTAL $31

Texas Parks and Wildlife Department
TPDES Permit No. WQ0011234001
Docket No. 2011-0221-MWD-E; Case No. 41091

EFFLUENT VIOLATION TABLE	
Months	TSS Daily Avg. Conc.
	Limit = 20 mg/L
December 2009	35.9
January 2010	34.3
February 2010	37.5

TSS = total suspended solids
Avg. = average
mg/L = milligrams per Liter
Conc. = concentration

Compliance History

Customer/Respondent/Owner-Operator:	CN600134852	Texas Parks and Wildlife Department	Classification: AVERAGE	Rating: 1.80
Regulated Entity:	RN101282317	TPWD ABILENE STATE PARK	Classification: AVERAGE	Site Rating: 0.63

ID Number(s):			
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2210014
	WASTEWATER	PERMIT	WQ0011234001
	WASTEWATER	EPA ID	TX0032581

Location: approximately 0.4 mile east of Farm-to-Market Road 89 on Park Road 32 and approximately 4 miles southwest of the intersection of Farm-to-Market Road 89 and Farm-to-Market Road 613 in Taylor County, Texas

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: March 01, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 27, 2006 to January 27, 2011

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

Name: Jeremy Escobar Phone: (361) 825-3422

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	02/16/2006	(471837)
2	03/17/2006	(471838)
3	04/26/2006	(500348)
4	07/31/2006	(522455)
5	09/15/2006	(522456)
6	09/20/2006	(522457)
7	02/16/2007	(540921)
8	10/16/2006	(547154)
9	10/16/2006	(547155)
10	11/20/2006	(547156)
11	12/18/2006	(547157)
12	07/22/2008	(554070)
13	04/12/2007	(556664)
14	03/19/2007	(579665)
15	04/18/2007	(579666)
16	05/21/2007	(579667)
17	06/20/2007	(579668)
18	01/18/2007	(579669)
19	07/16/2007	(602902)
20	08/22/2007	(602903)
21	09/24/2007	(602904)
22	10/22/2007	(621286)
23	11/26/2007	(621287)
24	12/27/2007	(621288)

25	02/22/2008	(673348)
26	01/24/2008	(673349)
27	03/24/2008	(691522)
28	04/22/2008	(691523)
29	05/21/2008	(691524)
30	08/25/2008	(700621)
31	06/20/2008	(712467)
32	07/22/2008	(712468)
33	09/03/2008	(712469)
34	09/19/2008	(712470)
35	09/30/2008	(728708)
36	10/13/2008	(728709)
37	11/17/2008	(728710)
38	12/23/2008	(728711)
39	02/13/2009	(751805)
40	01/16/2009	(751806)
41	02/22/2007	(769562)
42	03/16/2009	(769563)
43	04/22/2009	(769564)
44	05/18/2009	(769565)
45	04/16/2010	(799137)
46	05/20/2010	(802564)
47	02/22/2010	(808400)
48	07/20/2009	(808401)
49	08/21/2009	(808402)
50	09/21/2009	(808403)
51	10/22/2009	(808404)
52	11/24/2009	(808405)
53	12/21/2009	(808406)
54	01/22/2010	(808407)
55	03/25/2010	(832253)
56	04/22/2010	(832254)
57	05/21/2010	(832255)
58	06/17/2010	(846692)
59	09/23/2010	(867351)
60	08/17/2010	(867352)
61	10/29/2010	(871908)
62	09/22/2010	(874388)
63	01/21/2011	(879986)
64	10/25/2010	(881968)
65	11/30/2010	(888444)
66	12/20/2010	(896753)

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

Date: 06/30/2006 (522455) CN600134852
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: 07/31/2006 (522456) CN600134852
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: 08/31/2006 (522457) CN600134852
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: 09/30/2006 (547155) CN600134852
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: 12/31/2006 (579669) CN600134852
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: 01/31/2007 (769562) CN600134852
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: 02/20/2007 (540921) CN600134852
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
Description: Failure to have MOR's for Feb 06, May-Dec 06, and Jan - Feb 07.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to inspect the EST.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)
Description: Failure to have quarterly distribution reports (DL QOR).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to paint/preserve the exterior of the elevated storage tank.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
Description: Failure to document weekly chlorine residuals from the distribution system.

Date: 04/11/2007 (556664) CN600134852
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
Description: Failure to have MOR's for Feb 06, May-Dec 06, and Jan - Feb 07.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to inspect the EST.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)
Description: Failure to have quarterly distribution reports (DL QOR).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to paint/preserve the exterior of the elevated storage tank.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
Description: Failure to document weekly chlorine residuals from the distribution system.

Date: 12/31/2007 (673349) CN600134852
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 (673348) CN600134852
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 (808407) CN600134852
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 (808400) CN600134852
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: 02/28/2010 (832253) CN600134852

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: 04/16/2010 (799137) CN600134852
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to have a monitoring plan.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Description: Failure to inspect the elevated storage tank annually.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
Description: Failure to maintain a chloramine disinfectant residual of 0.5 mg/L total throughout the distribution system.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to have two or more pumps that have a total capacity of 0.6 gpm per connection.

Date: 05/20/2010 (802564) CN600134852
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0011234001 PERMIT
Description: Failure to meet permit effluent limits for TSS based upon a twelve month record review of DMR data.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0011234001 PERMIT
Description: Failure to submit noncompliance notifications for effluent violations which deviate from the permitted effluent limitation by more than 40%.

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 TEXAS PARKS AND WILDLIFE DEPARTMENT RN101282317	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0221-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Parks and Wildlife Department ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a recreational vehicle park and camp approximately 0.4 mile east of Farm-to-Market Road 89 on Park Road 32 and approximately four miles southwest of the intersection of Farm-to-Market Road 89 and Farm-to-Market Road 613 in Taylor 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. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 26, 2011.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Three Hundred Eighty Dollars ($1,380) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Hundred Seventy-Six Dollars ($276) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. One Thousand One Hundred Four Dollars ($1,104) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the Respondent returned to compliance with permitted effluent limits by March 31, 2010 by cleaning the chlorine contact chamber.

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

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

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011234001, Effluent Limitation and Monitoring Requirements No. 1, as documented in a record review conducted on December 1, 2010, and shown in the table below:

EFFLUENT VIOLATION TABLE	
Months	TSS Daily Avg. Conc.
	Limit = 20 mg/L
December 2009	35.9
January 2010	34.3
February 2010	37.5

TSS = total suspended solids
Avg. = average
mg/L = milligrams per Liter
Conc. = concentration

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Parks and Wildlife Department, Docket No. 2011-0221-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 I, Paragraph 6 above, One Thousand

One Hundred Four Dollars ($1,104) 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 Facility operations referenced in this Agreed Order.

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

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

6. 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.

7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date 8/5/11

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Signature

Date 6/8/11

Dan R Sholly
Name (Printed or typed)
Authorized Representative of
Texas Parks and Wildlife Department

Deputy Director, State Parks Division
Title

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

Attachment A
Docket Number: 2011-0221-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Parks and Wildlife Department
Penalty Amount:	One Thousand One Hundred Four Dollars ($1,104)
SEP Offset Amount:	One Thousand One Hundred Four Dollars ($1,104)
Type of SEP:	Custom
Project Name:	*Lake Abilene Southwest Shore Erosion Control Project*
Location of SEP:	Taylor County

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 perform an erosion control project along the shore of Lake Abilene in Taylor County, Texas, to reduce siltation in the Fort Phantom Lake Watershed (the "Project"). The bank of Lake Abilene has eroded approximately seven feet within the past five years. The Project will consist of the installation of slope protection to eliminate ongoing erosion of Lake Abilene's shoreline. Slope stabilization will be addressed by the installation of R-Rap walls (also referred to as Bag Wall installation). The R-Rap wall installation will begin at N32°14'00.5" W99°53'41.4" and will continue 140 yards west to N32°14'01.7" W99°53'43.9". The SEP Offset Amount will be used to purchase R-Rap materials. No SEP Offset Amount may be used to pay labor costs for Park Rangers that will provide the labor for the Project during normal working hours.

Respondent shall perform the project in accordance with all federal, state, and local environmental laws and regulations. Respondent agrees to obtain any and all required permit(s) prior to commencement of the project, including a Nationwide Permit from the U.S. Corps of Engineers; the Marl, Sand, Gravel, Shell or Mudshell Permit from the Texas Parks and Wildlife Department; and rights of way easement authorizations. Respondent shall spend the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

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

b. Environmental Benefit

The SEP will provide a discernible environmental benefit by stabilizing the shoreline of Lake Abilene thus preventing or significantly reducing further erosion, sedimentation, and siltation. Continued erosion will lead to high sediment loads, silting, and a decrease in the holding capacity of the lake. The project will benefit and protect the water quality of Lake Abilene and the Fort Phantom Lake Watershed.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

a. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2., *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project, including copies of Rights-of-Way Easement Authorizations and any and all permits obtained pursuant to Section 1.A., above
270	Actions taken during previous 90-day period to implement the project, including photographs showing work completed to date
365	Notice of SEP completion

b. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which included:

1. An itemized list of expenditures and total of costs incurred to complete the project;
2. Copies of invoices, paid receipts, and cleared checks corresponding to the itemized list required in paragraph 3.B.1., above;
3. Verification of completion of the project, including Record Drawings;
4. Photographs of the completed project;
5. A map identifying the location of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
6. A certified/notarized statement of quantifiable environmental benefits produced by the project; and
7. Any information requested in Section 3 and any additional information that will demonstrate compliance with this SEP Attachment A.

c. Address

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

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

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

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A 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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP 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.