

Executive Summary – Enforcement Matter – Case No. 41452

City of Lexington

RN101916906

Docket No. 2011-0549-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Lexington WWTF, located at 8043 Farm-to-Market Road 1624, approximately 0.5 mile west of the intersection of Farm-to-Market Road 1624 and State Highway Spur 123, west of Lexington, Lee County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 22, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,670

Amount Deferred for Expedited Settlement: \$1,334

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: \$5,336

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

Executive Summary – Enforcement Matter – Case No. 41452
City of Lexington
RN101916906
Docket No. 2011-0549-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 25, 2011

Date(s) of NOE(s): April 7, 2011

Violation Information

1. Failed to timely submit the monthly discharge monitoring reports (“DMRs”) by the 20th day of the following month. Specifically, the Respondent did not submit DMRs for the months of September 2010 through December 2010 for Outfall 001 [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010016001, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d)].
2. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010 [TPDES Permit No. WQ0010016001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17)].
3. Failed to comply with permitted effluent limits for total suspended solids, dissolved oxygen, and 5-day biochemical oxygen demand [TPDES Permit No. WQ0010016001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that by April 13, 2011, the Respondent has implemented the following corrective measures at the Facility:

- a. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished;
- b. Submitted the monthly DMRs for the months of September 2010 through December 2010 for Outfall 001; and
- c. Submitted the annual sludge report for the reporting period ending July 31, 2010.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
2. The Order will also require the Respondent to, within 90 days, submit written certification demonstrating compliance.

Executive Summary – Enforcement Matter – Case No. 41452
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RN101916906
Docket No. 2011-0549-MWD-E

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: Phillip Hampsten, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-6732
Respondent: The Honorable Robert L. Willrich, Sr., Mayor, City of Lexington, P.O.
Box 56, Lexington, Texas 78947
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0549-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Lexington

Penalty Amount: Five Thousand Three Hundred Thirty-Six Dollars (\$5,336)

SEP Offset Amount: Five Thousand Three Hundred Thirty-Six Dollars (\$5,336)

Type of SEP: Pre-approved

Third-Party Recipient: Texas State University River Systems Institute-
Continuous Water Quality Monitoring Network

Location of SEP: Bandera, Bell, Bexar, Blanco, Burnet, Hays, Lee, Travis, and Williamson Counties

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 TCEQ 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)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Apr-2011	Screening	12-Apr-2011	EPA Due	
	PCW	13-Apr-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Lexington		
Reg. Ent. Ref. No.	RN101916906		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41452	No. of Violations	3
Docket No.	2011-0549-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$3,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **92.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,220**

Notes: Enhancement for two NOVs with similar violations, for one NOV with dissimilar violations, and for 16 months of self-reported effluent violations.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$50**

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

Total EB Amounts **\$174**
 Approx. Cost of Compliance **\$2,450**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,670**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$6,670**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,670**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,334**

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 **\$5,336**

Screening Date 12-Apr-2011

Docket No. 2011-0549-MWD-E

PCW

Respondent City of Lexington

Policy Revision 2 (September 2002)

Case ID No. 41452

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916906

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	18	90%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 92%

>> **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 two NOVs with similar violations, for one NOV with dissimilar violations, and for 16 months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 92%

Screening Date 12-Apr-2011
Respondent City of Lexington
Case ID No. 41452
Reg. Ent. Reference No. RN101916906
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2011-0549-MWD-E

PCW

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

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010016001, Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(1) and 319.7(d)

Violation Description Failed to timely submit the monthly discharge monitoring reports ("DMRs") by the 20th day of the following month. Specifically, the Respondent did not submit DMRs for the months of September 2010 through December 2010 for Outfall 001.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1%"/>
More than 70% of the rule requirement was met.					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

Four single events are recommended.

Good Faith Efforts to Comply

Reduction

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

Notes The Respondent achieved compliance by April 13, 2011.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Lexington
Case ID No. 41452
Req. Ent. Reference No. RN101916906
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	25-Mar-2011	13-Apr-2011	0.05	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Oct-2010	13-Apr-2011	0.48	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished and to submit the missing DMRs (\$25 per report). Date Required are the investigation date and the date the first DMR was due; and Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$350

TOTAL \$3

Screening Date 12-Apr-2011

Docket No. 2011-0549-MWD-E

PCW

Respondent City of Lexington

Policy Revision 2 (September 2002)

Case ID No. 41452

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916906

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0010016001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes The Respondent achieved compliance by April 13, 2011.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$182

This violation Final Assessed Penalty (adjusted for limits) \$182

Economic Benefit Worksheet

Respondent City of Lexington
Case ID No. 41452
Req. Ent. Reference No. RN101916906
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	1-Sep-2010	13-Apr-2011	0.61	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to prepare and submit the required sludge report. Date Required is the date the report was due; and Final Date is the date of compliance. The cost to update the Facility's guidance and conduct training is included in the economic benefit for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$100

TOTAL

\$3

Screening Date 12-Apr-2011

Docket No. 2011-0549-MWD-E

PCW

Respondent City of Lexington

Policy Revision 2 (September 2002)

Case ID No. 41452

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916906

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0010016001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits. See attached violation table.

Base Penalty

\$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen and total suspended solids values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

\$9,000

\$1,000

Violation Events

Number of Violation Events

3

151

Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty

\$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal

\$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$167

Violation Final Penalty Total

\$5,760

This violation Final Assessed Penalty (adjusted for limits)

\$5,760

Economic Benefit Worksheet

Respondent City of Lexington
Case ID No. 41452
Req. Ent. Reference No. RN101916906
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	28-Feb-2010	1-Nov-2011	1.67	\$167	n/a	\$167

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure compliance with permit effluent limits. Date Required is the first date of non-compliance; and Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$167

Effluent Limit Violation Table

City of Lexington
RN101916906, Case No. 41452, TPDES Permit No. WQ0010016001
2011-0549-MWD-E
Jorge Ibarra, P.E.

Corresponds to Violation Number: 3

EFFLUENT PARAMETER

Permit Limit					
	BOD5 Daily Average Concentration	DO Minimum	TSS Daily Average Loading		
<i>Month/Year</i>	30 mg/L	4 mg/L	150 lbs/day		
February 2010	30.43	c	c		
March 2010	33.8	c	c		
June 2010	c	1.53	c		
July 2010	c	2.88	c		
August 2010	c	3.04	329		

Name
milligram per liter - mg/L
pounds per day - lbs/day
Biochemical Oxygen Demand (5-day) - BOD5
Dissolve Oxygen - DO
Total Suspended Solids - TSS
compliant - c

Compliance History

Customer/Respondent/Owner-Operator:	CN600656656	City Of Lexington	Classification: AVERAGE	Rating: 0.91
Regulated Entity:	RN101916906	CITY OF LEXINGTON	Classification: AVERAGE	Site Rating: 0.91
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT EPA ID LICENSE		WQ0010016001 TX0054429 WQ0010016001
Location:	located at 8043 Farm-to-Market Road 1624, approximately 0.5 mile west of the intersection of Farm-to-Market Road 1624 and State Highway Spur 123, west of the City of Lexington in Lee County, Texas			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	April 12, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 12, 2006 to April 12, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jorge Ibarra, P.E.		Phone:	(817) 588-5890

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	04/19/2006	(501433)
2	05/18/2006	(501434)
3	06/19/2006	(501435)
4	07/17/2006	(523680)
5	09/20/2006	(523681)
6	02/16/2007	(538516)
7	11/07/2006	(548656)
8	11/16/2006	(548657)
9	12/20/2006	(548658)
10	06/06/2007	(562952)
11	02/20/2007	(581858)
12	03/19/2007	(581859)
13	04/12/2007	(581860)
14	05/18/2007	(581861)

15	06/14/2007	(581862)
16	01/18/2007	(581863)
17	11/05/2007	(599684)
18	07/13/2007	(608241)
19	08/21/2007	(608242)
20	09/20/2007	(608243)
21	12/07/2007	(621862)
22	10/26/2007	(621863)
23	11/14/2007	(621864)
24	12/12/2007	(621865)
25	01/28/2008	(673806)
26	03/28/2008	(692037)
27	07/10/2008	(692038)
28	07/10/2008	(692039)
29	07/10/2008	(692040)
30	01/07/2009	(710025)
31	04/16/2009	(752448)
32	04/16/2009	(752449)
33	04/16/2009	(752450)
34	04/16/2009	(752451)
35	04/16/2009	(752452)
36	04/16/2009	(752453)
37	04/16/2009	(752454)
38	02/22/2010	(791490)
39	09/29/2010	(867553)
40	09/29/2010	(867554)
41	09/29/2010	(867555)
42	09/29/2010	(867556)
43	09/29/2010	(867557)
44	09/29/2010	(867558)
45	09/29/2010	(867559)
46	09/29/2010	(867560)
47	09/23/2010	(869854)
48	09/29/2010	(874548)
49	11/23/2010	(878811)
50	04/07/2011	(907651)

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

Date:	05/31/2006	(501435)	CN600656656		
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:	06/30/2006	(523680)	CN600656656		
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	(523681)	CN600656656		
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	(581858)	CN600656656		
Self Report?	YES			Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	03/31/2007	(581860)	CN600656656		
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	12/31/2007	(673806)	CN600656656		
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	08/31/2008	(752450)	CN600656656		
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	(752451)	CN600656656		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	10/31/2009	(752452)	CN600656656		
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	11/30/2009	(867560)	CN600656656		
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	(752454)	CN600656656		
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	02/23/2010	(791490)	CN600656656		
Self Report?	NO			Classification	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d) TPDES Permit WQ0010016-001 PERMIT				
Description:	Failure to provide an operator with a current and adequate license to operate the wastewater treatment plant.				
Self Report?	NO			Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) TPDES Permit WQ0010016-001 PERMIT				
Description:	Failure to properly maintain the aerated lagoon.				

Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit WQ0010016-001 PERMIT		
Description:	Failure to comply with the permitted effluent limitation for pH maximum.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit WQ0010016-001 PERMIT		
Description:	Failure to calibrate the flow totalizer at least once per year.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES Permit WQ0010016-001 PERMIT		
Description:	Failure to comply with the permitted effluent limitations for pH maximum, dissolved oxygen minimum, biological oxygen demand (BOD), and total suspended solids (TSS).		
Date	02/28/2010	(867554)	CN600656656
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	03/31/2010	(867555)	CN600656656
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2010	(867558)	CN600656656
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2010	(867559)	CN600656656
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/31/2010	(874548)	CN600656656
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	09/23/2010	(869854)	CN600656656
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		

Description:	30 TAC Chapter 305, SubChapter F 305.125(17)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date	11/30/2010	(878811)	CN600656656
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	TPDES Permit WQ0010016-001 PERMIT		
Description:	Failure to properly maintain the aerated lagoon.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LEXINGTON
RN101916906**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0549-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 City of Lexington ("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 wastewater treatment plant located at 8043 Farm-to-Market Road 1624, approximately 0.5 mile west of the intersection of Farm-to-Market Road 1624 and State Highway Spur 123, west of Lexington in Lee 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 April 12, 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 Six Thousand Six Hundred Seventy Dollars (\$6,670) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Three Hundred Thirty-Four Dollars (\$1,334) 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. Five Thousand Three Hundred Thirty-Six Dollars (\$5,336) 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 by April 13, 2011, the Respondent has implemented the following corrective measures at the Facility:
 - a. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished;
 - b. Submitted the monthly discharge monitoring reports ("DMRs") for the months of September 2010 through December 2010 for Outfall 001; and
 - c. Submitted the annual sludge report for the reporting period ending July 31, 2010.
 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:

1. Failed to timely submit the monthly DMRs by the 20th day of the following month, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010016001, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d), as documented during a record review conducted on March 25, 2011. Specifically, the Respondent did not submit DMRs for the months of September 2010 through December 2010 for Outfall 001.

2. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of TPDES Permit No. WQ0010016001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17), as documented during a record review conducted on March 25, 2011. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010.
3. Failed to comply with permitted effluent limits, in violation of TPDES Permit No. WQ0010016001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 25, 2011 as depicted in the table below:

EFFLUENT PARAMETER			
Permit Limit			
	BOD ₅ Daily Average Concentration	DO Minimum	TSS Daily Average Loading
Month/Year	30 mg/L	4 mg/L	150 lbs/day
February 2010	30.43	c	c
March 2010	33.8	c	c
June 2010	c	1.53	c
July 2010	c	2.88	c
August 2010	c	3.04	329

BOD₅ = biochemical oxygen demand DO = dissolved oxygen c = compliant
 TSS = total suspended solids lbs/day = pounds per day mg/L = milligrams per liter

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: City of Lexington, Docket No. 2011-0549-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, Five Thousand Three Hundred Thirty-Six Dollars (\$5,336) 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 Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010016001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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

8/5/11

Date

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

6-20-11

Date



Name (Printed or typed)
Authorized Representative of
City of Lexington

MAYOR

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: 2011-0549-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Lexington

Penalty Amount: Five Thousand Three Hundred Thirty-Six Dollars (\$5,336)

SEP Offset Amount: Five Thousand Three Hundred Thirty-Six Dollars (\$5,336)

Type of SEP: Pre-approved

Third-Party Recipient: Texas State University River Systems Institute-
Continuous Water Quality Monitoring Network

Location of SEP: Bandera, Bell, Bexar, Blanco, Burnet, Hays, Lee, Travis, and Williamson Counties

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 TCEQ 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.