

**Executive Summary – Enforcement Matter – Case No. 43457**  
**Lower Colorado River Authority**  
**RN101018240**  
**Docket No. 2012-0291-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Camp Swift Regional Wastewater Treatment Plant, located at 101 Cool Water Drive approximately 1.2 miles east-northeast of the intersecion of State Highway 95 and Farm-to-Market Road 1441, approximately 6 miles north of Bastrop, Bastrop County

**Type of Operation:**

Domestic wastewater treatment plant and associated collection system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 10, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$6,413

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,413

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 43457**  
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***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 8, 2011 and February 7, 2012

**Date(s) of NOE(s):** January 6, 2012 and February 14, 2012

***Violation Information***

1. Failed to prevent the unauthorized discharge of wastewater from the collection system [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE 305.125(a), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013548001 Permit Condition No. 2.g].

2. Failed to comply with permitted effluent limits for ammonia nitrogen and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE 305.125(a), and TPDES Permit No. WQ0013548001 Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures at the Facility:

- a. By November 9, 2011, repaired the split in the force main;
- b. By November 9, 2011, removed the sewage from the dry creek and disposed of it; and
- c. By November 30, 2011, took the Facility off-line to replace the membranes and to further evaluate the Facility to determine the cause of the exceedances.

**Technical Requirements:**

The Order will require the Respondent to, within 90 days, submit written certification of compliance with permitted effluent limitations of TPDES Permit No. WQ0013548001, 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.

***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

**Executive Summary – Enforcement Matter – Case No. 43457**  
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***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Harvey Wilson, Enforcement Division,  
Enforcement Team 3, MC 169, (512) 239-0321; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Henry Eby, Executive Manager Environmental and Regulatory, Lower  
Colorado River Authority, P.O. Box 220, Austin, Texas 78767  
Gloria Broussard, Senior Environmental Coordinator, Lower Colorado River Authority,  
P.O. Box 220, Austin, Texas 78767

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	17-Jan-2012	<b>Screening</b>	29-Jan-2012	<b>EPA Due</b>	
	<b>PCW</b>	1-Feb-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Lower Colorado River Authority		
<b>Reg. Ent. Ref. No.</b>	RN101018240		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43457	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-0291-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harvey Wilson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$5,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **47.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,350**

Notes: Enhancement for four NOVs with same/similar violations, five months of self-reported effluent violations, and one NOV 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** **\$937**

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

Total EB Amounts \$32,761  
Approx. Cost of Compliance \$567,725  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$6,413**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$6,413**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$6,413**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$6,413**

Screening Date 29-Jan-2012

Docket No. 2012-0291-MWD-E

PCW

Respondent Lower Colorado River Authority

Policy Revision 3 (September 2011)

Case ID No. 43457

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101018240

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

### 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> )	9	45%
	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) 47%

>> 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 four NOVs with same/similar violations, five months of self-reported effluent violations, and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 47%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 47%

Screening Date 29-Jan-2012

Docket No. 2012-0291-MWD-E

PCW

Respondent Lower Colorado River Authority

Policy Revision 3 (September 2011)

Case ID No. 43457

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101018240

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code 305.125(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013548001 Permit Condition No. 2.g

Violation Description Failed to prevent the unauthorized discharge of wastewater from the collection system, as documented during an investigation conducted on November 8, 2011. Specifically, approximately 60,000 gallons of wastewater was discharged from a force main near Lift Station No. 2 into a dry creek bed on November 5, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 4

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

Violation Base Penalty \$3,750

One monthly event is recommended, from November 5, 2011, the date of the discharge until November 9, 2011, the date of compliance.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes Respondent achieved compliance on November 9, 2011.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$4,576

This violation Final Assessed Penalty (adjusted for limits) \$4,576

## Economic Benefit Worksheet

**Respondent** Lower Colorado River Authority  
**Case ID No.** 43457  
**Reg. Ent. Reference No.** RN101018240  
**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
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	5-Nov-2011	9-Nov-2011	0.01	\$0	\$4	\$4
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	\$2,725	5-Nov-2011	9-Nov-2011	0.01	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The estimated cost of repairing the split in the force main and the actual cost of removing and disposing of the wastewater. Date Required is the date of the discharge. Final Date is the date the Facility achieved 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**

\$7,725

**TOTAL**

\$5

Screening Date 29-Jan-2012

Docket No. 2012-0291-MWD-E

PCW

Respondent Lower Colorado River Authority

Policy Revision 3 (September 2011)

Case ID No. 43457

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101018240

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code 305.125(a), and TPDES Permit No. WQ0013548001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on February 7, 2012 (see attached table).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

91 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet good faith criteria.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32,756

Violation Final Penalty Total \$1,838

This violation Final Assessed Penalty (adjusted for limits) \$1,838

# Economic Benefit Worksheet

**Respondent** Lower Colorado River Authority  
**Case ID No.** 43457  
**Reg. Ent. Reference No.** RN101018240  
**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
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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)	\$560,000	30-Sep-2011	30-Nov-2012	1.17	\$32,756	n/a	\$32,756

Notes for DELAYED costs

The estimated cost of replacing the membranes. Date Required is the first month of noncompliance. Final Date is the expected date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$560,000

**TOTAL** \$32,756

Lower Colorado River Authority  
 RN101018240  
 TPDES Permit No. WQ0013548001  
 Docket No. 2012-0291-MWD-E  
 Violation Table

Monitoring Period	Ammonia Nitrogen Daily Average Concentration 2 mg/L	Total Suspended Solids Daily Average Concentration 5 mg/L	Total Suspended Solids Daily Average Loading 15 lbs/d
September 30, 2011	C	9.2	18.3
October 31, 2011	C	11.5	C
November 30, 2011	4.22	16.2	16.2
mg/L = milligrams per liter    lbs/d = pounds per day    C = compliant			



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600253637	Lower Colorado River Authority	Classification: AVERAGE	Rating: 2.82
Regulated Entity:	RN101018240	CAMP SWIFT REGIONAL WASTEWATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT EPA ID LICENSE		WQ0013548001 TX0125334 WQ0013548001
Location:	101 Cool Water Drive, approximately 1.2 miles east-northeast of the intersection of State Highway 95 and Farm-to-Market Road 1441, approximately 6 miles north of the City of Bastrop in Bastrop County Texas			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	March 29, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 29, 2007 to March 29, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Harvey Wilson</u>	Phone:	<u>239 - 0321</u>	

## 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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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	08/14/2007	(512972)
2	11/29/2007	(595205)
3.	01/23/2008	(614536)
4	09/05/2007	(633453)
5	05/27/2008	(646407)
6	02/08/2008	(679869)
7	10/20/2008	(718307)
8	12/01/2008	(733542)
9	12/01/2008	(733543)
10	12/01/2008	(733544)
11	12/01/2008	(733545)

12	12/01/2008	(733546)
13	12/01/2008	(733547)
14	12/01/2008	(733548)
15	12/01/2008	(733549)
16	12/01/2008	(733550)
17	12/01/2008	(733551)
18	12/01/2008	(733552)
19	12/01/2008	(733553)
20	12/01/2008	(733554)
21	12/01/2008	(733555)
22	12/01/2008	(733556)
23	12/01/2008	(733557)
24	12/01/2008	(733558)
25	12/01/2008	(733559)
26	12/01/2008	(733560)
27	12/01/2008	(733561)
28	12/01/2008	(733562)
29	12/01/2008	(733563)
30	03/20/2009	(756718)
31	04/20/2009	(756719)
32	08/13/2009	(764923)
33	05/20/2009	(773594)
34	06/15/2009	(773595)
35	02/25/2010	(792747)
36	02/18/2010	(821053)
37	07/20/2009	(821054)
38	08/31/2009	(821055)
39	09/18/2009	(821056)
40	10/20/2009	(821057)
41	11/20/2009	(821058)
42	12/18/2009	(821059)
43	01/20/2010	(821060)
44	03/19/2010	(836639)
45	04/19/2010	(836640)
46	05/20/2010	(836641)
47	06/18/2010	(848031)
48	07/19/2010	(862474)
49	11/19/2010	(889916)
50	12/20/2010	(898334)
51	01/20/2011	(904176)
52	02/17/2011	(911047)
53	03/15/2011	(918334)
54	04/20/2011	(931216)
55	09/01/2010	(931217)
56	09/20/2010	(931218)
57	10/19/2010	(931219)



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		
	TWC Chapter 26 26.121		
Description:	Failure to prevent unauthorized discharges of untreated wastewater. Discharges occurred on April 3, 2008 and again on May 8, 2008. The first discharge was 47,150 gallons that flowed into a private lake (Lake Tuck). The next discharge was on May 8, 2008 of 30,000 gallons and it flowed into the same private lake.		
Date	04/30/2009	(773594)	CN600253637
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	02/24/2010	(792747)	CN600253637
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4)		
	Permit Conditions, Pg. 7, No. 2(g) PERMIT		
	TWC Chapter 26 26.121		
Description:	Failure to prevent the unauthorized discharge of wastewater into or adjacent to waters of the state.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Effluent Limitations, Pg. 2a, No. 1 PERMIT		
Description:	Failure to comply with the permitted effluent limitations.		
Date	09/30/2011	(973355)	CN600253637
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	10/31/2011	(979477)	CN600253637
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	11/05/2011	(9702770)	CN600253637
Self Report?	NO		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to prevent unauthorized discharge		
Date	11/30/2011	(979777)	CN600253637
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 02/07/2012 (983727)

CN600253637

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSa)

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  
LOWER COLORADO RIVER  
AUTHORITY  
RN101018240**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-0291-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the Lower Colorado River Authority (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a domestic wastewater treatment plant and associated collection system located at 101 Cool Water Drive, approximately 1.2 miles east-northeast of the intersection of State Highway 95 and Farm-to-Market Road 1441, approximately six miles north of Bastrop in Bastrop County, Texas (the “Facility”).

2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on November 8, 2011, TCEQ staff documented that an unauthorized discharge of untreated wastewater of approximately 60,000 gallons was discharged from a force main near Lift Station No. 2 into a dry creek bed on November 5, 2011.
4. During a record review on February 7, 2012, TCEQ staff documented that the Respondent exceeded the permitted effluent limits as shown in the table below:

Monitoring Period	Ammonia Nitrogen Daily Average Concentration 2 mg/L	Total Suspended Solids Daily Average Concentration 5 mg/L	Total Suspended Solids Daily Average Loading 15 lbs/d
September 30, 2011	C	9.2	18.3
October 31, 2011	C	11.5	C
November 30, 2011	4.22	16.2	16.2
mg/L = milligrams per liter    lbs/d = pounds per day    C = compliant			

5. The Respondent received notice of the violations on January 6, 2012, and on February 14, 2012, respectively.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By November 9, 2011 repaired the split in the force main;
  - b. By November 9, 2011 removed the sewage from the dry creek and disposed of it; and
  - c. By November 30, 2011 took the Facility off-line to replace the membranes and to further evaluate the Facility to determine the cause of the exceedances.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater from the collection system, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE 305.125(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013548001 Permit Condition No. 2.g, as documented during an investigation conducted on November 8, 2011.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE 305.125(a), and TPDES Permit No. WQ0013548001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on February 7, 2012.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Six Thousand Four Hundred Thirteen Dollars (\$6,413) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Six Thousand Four Hundred Thirteen Dollar (\$6,413) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Four Hundred Thirteen Dollars (\$6,413) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lower Colorado River Authority, Docket No. 2012-0291-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. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with permitted effluent limitations of TPDES Permit No. WQ0013548001, 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 include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

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

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

The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

9/5/12  
Date

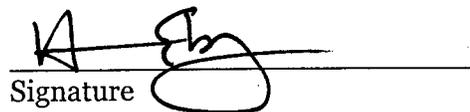
I, the undersigned, have read and understand the attached Agreed Order in the matter of the Lower Colorado River Authority. I am authorized to agree to the attached Agreed Order on behalf of Lower Colorado River Authority, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Lower Colorado River Authority waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

  
Signature

6/25/12  
Date

Henry Eby  
Name (Printed or typed)  
Authorized Representative of  
Lower Colorado River Authority

Executive Manager  
Environmental and Regulatory  
Title

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