

Executive Summary – Enforcement Matter – Case No. 42941

City of Leander

RN101917722

Docket No. 2011-2089-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Leander WWTP, located at 10201 Ranch-to-Market Road 2243, approximately 4,000 feet east of the intersection of United States (“US”) Highway 183 and Ranch-to-Market Road 2243 with an associated collection system lift station and manhole located at the corner of Sonny Drive and US Highway 183 near Mason Creek, Leander, Williamson County

Type of Operation:

Wastewater treatment facility with an associated collection system lift station and manhole

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 22, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$33,000

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$33,000

Name of SEP: Custom - Household Hazardous Waste, Municipal Solid Waste, and Tire Collection Event

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 42941
City of Leander
RN101917722
Docket No. 2011-2089-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 21, 2011 and December 7, 2011

Date(s) of NOE(s): October 27, 2011

Violation Information

1. Failed to prevent the unauthorized discharges of wastewater from a collection system into water in the state [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0012644001, Permit Conditions No. 2.g].
2. Failed to comply with the permitted effluent limits for total phosphorous, ammonia nitrogen, and total residual chlorine [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012644001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

a. By April 30, 2011:

- i. Cleaned the aeration basin and returned both basins to service;
- ii. Replaced the 18-inch air supply line header; and
- iii. Returned to compliance with permitted effluent limits.

b. On September 21, 2011:

- i. Replaced the low level float valve on the wet well of the lift station and connected the lift station to the supervisory control and data acquisition system;
- ii. Pumped the sewage from the creek and cleaned up the discharge;
- iii. Installed a telephone line and a Sensaphone auto dialer as a backup to the alarm system at the lift station;
- iv. Constructed concrete monuments on four manholes within the Mason Creek drainage ditch that was the source of the discharge; and
- v. Removed concrete obstruction in the sewer line up stream of the lift station.

Executive Summary – Enforcement Matter – Case No. 42941
City of Leander
RN101917722
Docket No. 2011-2089-MWD-E

Technical Requirements:

The Order will require 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: Kent Cagle, City Manager, City of Leander, P.O. Box 319, Leander, Texas
78646

Patrick Womack, Public Works Director, City of Leander, P.O. Box 319, Leander, Texas
78646

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-2089-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Leander
Penalty Amount:	Thirty-Three Thousand Dollars (\$33,000)
SEP Offset Amount:	Thirty-Three Thousand Dollars (\$33,000)
Type of SEP:	Custom
Project Name:	<i>Household Hazardous Waste, Municipal Solid Waste, and Tire Collection Event</i>
Location of SEP:	Williamson 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 hold a one-day event for collecting tires, household hazardous waste, and large, bulky municipal solid waste including, but not limited to paint, used furniture, old mattresses, broken fences, and brush. Respondent shall offer a convenient and supervised drop-off collection site where the public can drop off materials for disposal or recycling at no cost to the citizens. The collection site will be located at 607 Municipal Drive, Leander, Texas 78646. The disposal facility will be Williamson County Landfill (RN105416382; Permit No. 48024) located at 600 Landfill Road, Hutto, Texas 78634. The event will be advertised in a local newspaper to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*, below.

Respondent shall ensure that the collection event:

- occurs on a weekend during daylight hours
- offers to the public a convenient drop-off location
- uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste
- is advertised in at least one newspaper of large circulation in the geographic area and in the City of Leander’s water/wastewater utility bill.

The Respondent shall perform this project including collection, transport, storage, disposal of, or recycling of the collected materials in accordance with practices recommended by TCEQ and in accordance with all applicable federal, state and local laws and regulations. The SEP Offset Amount will be used for equipment, materials, supplies, public announcement of the event, licensed contractor costs, and all disposal and recycling costs.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project and no portion shall be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to 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 providing for the proper disposal of wastes that can leach chemicals into the soil, water and air, as well as help rid communities of the dangers and health threats associated with non-regulated dumping.

The tire collection, recycling and disposal portion of the event will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with illegal tire sites.

The bulky municipal waste and brush collection and disposal portion of the event will provide a discernible environmental benefit by helping to prevent the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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. Respondent is required to submit a copy of its advertisement of the collection event to TCEQ for approval in advance of publication. 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:

City of Leander
Attachment A

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
270	Actions taken during previous 90-day period to implement the project
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 includes:

1. An itemized list of expenditures and total of costs incurred for each collection event;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list required in paragraph 3.B.1., above;
3. Copies of proof of advertisement for the collection event (the advertisement must include the enforcement statement that the SEP was performed as a result of a TCEQ enforcement action);
4. Proof of publication of invitation for (and selection of competitive bids for the project, if applicable, and must include the enforcement statement);
5. Dated photographs of the items collected from the collection event;
6. Map showing exact location(s) of collection site(s) clearly marked. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
7. Tally list of items collected from each collection event, i.e. number of passenger tires, number of truck tires, pounds of brush, gallons of paint, etc.;
8. Manifests are required to demonstrate proof of the proper disposal and/or recycling of the collected items;
9. A certified/notarized statement of quantifiable environmental benefit. Respondent must quantify the environmental benefit of the project; and
10. Any additional information and supporting documentation to demonstrate completion of the project in compliance with this SEP agreement.

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 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	31-Oct-2011	Screening	9-Nov-2011	EPA Due	
	PCW	16-Nov-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Leander
Reg. Ent. Ref. No.	RN101917722
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	42941	Order Type	Findings
Docket No.	2011-2089-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **90.0%** Enhancement **Subtotals 2, 3, & 7** **\$6,750**

Notes Enhancement for twelve months of self-reported effluent violations, two NOVs for the same/similar violations, and one agreed order with denial of liability.

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

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,875**

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

Total EB Amounts **\$0**
 Approx. Cost of Compliance **\$6,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,375**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$12,375**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,375**

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

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$12,375**

Screening Date 9-Nov-2011

Docket No. 2011-2089-MWD-E

PCW

Respondent City of Leander

Policy Revision 3 (September 2011)

Case ID No. 42941

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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>)	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%
<i>Please Enter Yes or No</i>			
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) 90%

>> **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 twelve months of self-reported effluent violations, two NOVs for the same/similar violations, and one agreed order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 90%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 90%

Screening Date 9-Nov-2011
Respondent City of Leander
Case ID No. 42941
Reg. Ent. Reference No. RN101917722
Media [Statute] Water Quality
Enf. Coordinator Samuel Short
Violation Number 1

Docket No. 2011-2089-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Rule Cite(s)

Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0012644001, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharges of wastewater from a collection system into water in the state. Specifically, on September 21, 2011, a malfunctioning low level float valve on the wet well of the lift station located at the corner of Sonny Drive and United States Highway 183 resulted in a discharge of approximately 68,400 gallons of untreated wastewater from a nearby manhole. The discharge then travelled to Mason Creek, killing an estimated 50 fish.

Base Penalty \$25,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One daily event is recommended from the date the discharge occurred, September 21, 2011, to the date clean up was completed, September 21, 2011.

Good Faith Efforts to Comply

Reduction

\$1,875

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

Notes

The Respondent returned to compliance on September 21, 2011.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$12,375

This violation Final Assessed Penalty (adjusted for limits) \$12,375

Economic Benefit Worksheet

Respondent City of Leander
Case ID No. 42941
Req. Ent. Reference No. RN101917722
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	\$1,000	21-Sep-2011	21-Sep-2011	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)	\$5,000	21-Sep-2011	21-Sep-2011	0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to replace the low level float valve on the wet well of the lift station and connect the lift station to the supervisory control and data acquisition system. Date required is the date the discharge occurred and the final date is the date of compliance.
 The estimated cost to pump the creek and clean up the discharge. Date required is the date the discharge occurred and the final date is the date the clean up was complete.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Dec-2011	Screening	8-Dec-2011	EPA Due	5-Sep-2010
	PCW	9-Dec-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Leander
Reg. Ent. Ref. No.	RN101917722
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	42941	Order Type	Findings
Docket No.	2011-2089-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		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* **\$12,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **90.0%** Enhancement *Subtotals 2, 3, & 7* **\$11,250**

Notes: Enhancement for twelve months of self-reported effluent violations, two NOV's for the same/similar violations, and one agreed order with denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$3,125**

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

Total EB Amounts \$750
Approx. Cost of Compliance \$15,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$20,625**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$20,625**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$20,625**

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

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$20,625**

Screening Date 8-Dec-2011

Docket No. 2011-2089-MWD-E

PCW

Respondent City of Leander

Policy Revision 2 (September 2002)

Case ID No. 42941

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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>)	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%
<i>Please Enter Yes or No</i>			
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) 90%

>> 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 twelve months of self-reported effluent violations, two NOVs for the same/similar violations, and one agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 90%

Screening Date 8-Dec-2011

Docket No. 2011-2089-MWD-E

PCW

Respondent City of Leander

Policy Revision 2 (September 2002)

Case ID No. 42941

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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 ("TPDES") Permit No. WQ0012644001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description Failed to comply with the permitted effluent limits, as documented during a record review conducted on December 7, 2011 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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. Chlorine residual and total phosphorus were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 151 Number of violation days

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

Violation Base Penalty \$7,500

Three quarterly events are recommended for the quarters containing the months of April 2010, May 2010, October 2010, February 2011, and March 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes The Respondent returned to compliance with permitted effluent limits on April 30, 2011.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$750

Violation Final Penalty Total \$12,375

This violation Final Assessed Penalty (adjusted for limits) \$12,375

Economic Benefit Worksheet

Respondent City of Leander
Case ID No. 42941
Reg. Ent. Reference No. RN101917722
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				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)	\$15,000	30-Apr-2010	30-Apr-2011	1.00	\$750	n/a	\$750

Notes for DELAYED costs

Estimated cost to clean the aeration basin and return both basins to service, and to replace the 18 inch air supply line header. Date required is the first date of non-compliance. The final date is the date the Respondent 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	\$15,000	TOTAL	\$750
----------------------------	----------	--------------	-------

Screening Date 8-Dec-2011
Respondent City of Leander
Case ID No. 42941
Reg. Ent. Reference No. RN101917722
Media [Statute] Water Quality
Enf. Coordinator Samuel Short

Docket No. 2011-2089-MWD-E

PCW

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

Violation Number

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No: WQ0012644001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limits for the monitoring period ending June 30, 2010, as documented during a record review conducted on December 7, 2011 and shown in the attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

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. As a result of these discharges, human health or the environment has been exposed to a significant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

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 checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One monthly event is recommended for the month of June 2010.

Good Faith Efforts to Comply

Reduction

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

Notes

The Respondent returned to compliance with permitted effluent limits on April 30, 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 Leander
Case ID No. 42941
Reg. Ent. Reference No. RN101917722
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
<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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation no. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Effluent Limit Violation Table

Respondent City of Leander
ID Number(s) TPDES Permit No. WQ0012644001; Case No. 42941
Docket Number 2011-2089-MWD-E
Enf. Coordinator Samuel Short

Corresponds to Violation Number: 2

EFFLUENT PARAMETER
Permit Limit

<i>Month/Year</i>	Total Phosphorus Daily Average Conc.	Ammonia Nitrogen Daily Average Conc.	Ammonia Nitrogen Single Grab Conc.	Ammonia Nitrogen Daily Average Loading	Total Chlorine Residual Instantaneous Max.			
	1 mg/L	2 mg/L	10 mg/L	38 lb/dy	0.099 mg/L			
April 2010	c	c	c	c	0.8			
May 2010	c	3.5	c	38.95	c			
June 2010	c	7	11.4	80.93	c			
October 2010	1.31	c	c	c	c			
February 2011	c	6.18	14.4	40.36	c			
March 2011	c	2.41	c	c	c			

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
pounds per day	lb/dy
maximum	Max.
concentration	Conc.
compliant	c

Compliance History

Customer/Respondent/Owner-Operator:	CN600646012 City of Leander	Classification: AVERAGE	Rating: 11.88
Regulated Entity:	RN101917722 CITY OF LEANDER WWTP	Classification: AVERAGE	Site Rating: 2.29
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID WASTEWATER LICENSING LICENSE		WQ0012644001 TX0092151 WQ0012644001
Location:	LOCATED AT 10201 RANCH-TO-MARKET ROAD 2243, APPROXIMATELY 4,000 FEET EAST OF THE INTERSECTION OF UNITED STATES HIGHWAY 183 AND RANCH-TO-MARKET ROAD 2243 WITH AN ASSOCIATED COLLECTION SYSTEM LIFT STATION AND MANHOLE LOCATED AT THE CORNER OF SONNY DRIVE AND UNITED STATES HIGHWAY 183 NEAR MASON CREEK IN LEANDER, WILLIAMSON COUNTY, TEXAS		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	November 08, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 08, 2006 to November 08, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Samuel Short	Phone:	(512) 239-5363

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: 9/1/2011 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.

Effective Date: 08/21/2010	ADMINORDER 2009-1206-MWD-E
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5)	
TWC Chapter 26 26.121	
Rqmt Prov: Permit Conditions No. 2.g. PERMIT	
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the period of June 2008 through June 2009 the City reported six sanitary sewer system overflows.	
Classification: Minor	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)	
Rqmt Prov: Monitoring and Reporting Requirements 7a PERMIT	
Description: Failed to notify the TCEQ within 24 hours of an unauthorized discharge of wastewater. Specifically, the unauthorized discharge that occurred on September 12, 2009 was not reported to the TCEQ until September 14, 2009.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5)	
TWC Chapter 26 26.121	
Rqmt Prov: Permit Conditions No. 2.g. PERMIT	
Description: Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, 75,000 gallons of wastewater was discharged from Lift Station No. 11, which is located approximately 50 feet from an un-named tributary of Blockhouse Creek which thence flows to Blockhouse Creek and thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The discharge flowed down gradient into an un-named creek on September 12, 2009 due to inflow and infiltration from a 5-inch rain	

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/24/2007	(517949)
2	11/05/2007	(599617)
3	02/21/2007	(625920)
4	03/22/2007	(625921)
5	04/20/2007	(625922)
6	05/22/2007	(625923)
7	06/21/2007	(625924)
8	07/19/2007	(625925)
9	08/23/2007	(625926)
10	09/18/2007	(625928)
11	10/22/2007	(625930)
12	11/27/2006	(625931)
13	11/26/2007	(625932)
14	12/21/2006	(625933)
15	12/20/2007	(625934)
16	01/22/2007	(625935)
17	11/30/2007	(625936)
18	02/21/2008	(675802)
19	02/21/2008	(675803)
20	02/21/2008	(675804)
21	03/26/2008	(694145)
22	04/23/2008	(694146)
23	05/21/2008	(694147)
24	06/20/2008	(715542)
25	08/15/2008	(715543)
26	09/22/2008	(715544)
27	10/20/2008	(731258)
28	11/21/2008	(731259)
29	12/22/2008	(731260)
30	07/22/2009	(746258)
31	02/24/2009	(754556)
32	02/24/2009	(754557)
33	03/23/2009	(771806)
34	04/22/2009	(771807)
35	09/15/2009	(776061)
36	10/01/2009	(776625)
37	03/09/2010	(794712)
38	02/22/2010	(815455)
39	06/22/2009	(815456)
40	08/24/2009	(815457)
41	09/21/2009	(815458)
42	10/19/2009	(815459)
43	11/23/2009	(815460)
44	12/21/2009	(815461)
45	09/08/2009	(815462)
46	03/22/2010	(834601)
47	03/22/2010	(834602)
48	05/24/2010	(834603)
49	06/14/2010	(847412)
50	03/22/2010	(861843)
51	08/30/2010	(868295)
52	10/20/2010	(875193)
53	09/09/2010	(882813)

54	12/13/2010	(889209)
55	03/03/2011	(900077)
56	01/18/2011	(903479)
57	02/11/2011	(910384)
58	03/31/2011	(910385)
59	03/14/2011	(917614)
60	04/12/2011	(928773)
61	07/19/2011	(932762)
62	05/10/2011	(939319)
63	07/13/2011	(946720)
64	06/10/2011	(953983)
65	08/12/2011	(960573)
66	10/27/2011	(962214)

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

Date:	12/31/2006	(625935)	CN600646012		
Self Report?	YES			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	05/31/2007	(625924)	CN600646012		
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:	10/31/2007	(625932)	CN600646012		
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:	02/28/2009	(771806)	CN600646012		
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:	06/30/2009	(754557)	CN600646012		
Self Report?	YES			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date:	08/31/2009	(815458)	CN600646012		
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:	03/10/2010	(794712)	CN600646012		
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) Permit Conditions 2. Compliance g. PERMIT TWC Chapter 26 26.121				
Description:	Failure to prevent the unauthorized discharge of 86,400 gallons of partially treated wastewater from the City of Leander WWTP into or adjacent to any water of the state, Brushy Creek.				
Date	04/30/2010	(834603)	CN600646012		
Self Report?	YES			Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				
Date	05/31/2010	(847412)	CN600646012		
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	(861843)	CN600646012		
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 10/31/2010 (889209) CN600646012
 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 02/28/2011 (917614) CN600646012
 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 03/31/2011 (928773) CN600646012
 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 07/18/2011 (932762) CN600646012
 Self Report? NO Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
 2D TWC Chapter 26, SubChapter A 26.121(b)
 2D TWC Chapter 26, SubChapter A 26.121(c)
 2D TWC Chapter 26, SubChapter A 26.121(d)
 2D TWC Chapter 26, SubChapter A 26.121(e)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(2)
 Description: Failure to prevent unauthorized discharges at the plant or in the collection system since the last CCI.
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with self-monitored effluent limitation.

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 LEANDER
RN101917722**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-2089-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 City of Leander (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 10201 Ranch-to-Market Road 2243, approximately 4,000 feet east of the intersection of United States Highway 183 and Ranch-to-Market Road 2243, with an associated collection system lift station and manhole located at the corner of Sonny Drive and United States Highway 183 near Mason Creek in Leander, Williamson County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on September 21, 2011, TCEQ staff documented that a malfunctioning low level float valve on the wet well of the lift station located at the corner of Sonny Drive and United States Highway 183 resulted in a discharge of approximately 68,400 gallons of untreated wastewater from a nearby manhole. The discharge then travelled to Mason Creek, killing an estimated 50 fish.
4. During a record review investigation on December 7, 2011, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports ("DMR").

EFFLUENT PARAMETER
Permit Limit

	Total Phosphorus Daily Average Conc.	Ammonia Nitrogen Daily Average Conc.	Ammonia Nitrogen Single Grab Conc.	Ammonia Nitrogen Daily Average Loading	Total Chlorine Residual Instantaneous Max.
<i>Month/Year</i>	1 mg/L	2 mg/L	10 mg/L	38 lb/dy	0.099 mg/L
April 2010	c	c	c	c	0.8
May 2010	c	3.5	c	38.95	c
June 2010	c	7	11.4	80.93	c
October 2010	1.31	c	c	c	c
February 2011	c	6.18	14.4	40.36	c
March 2011	c	2.41	c	c	c

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lb/dy
maximum	Max.
concentration	Conc.
compliant	c

5. The Respondent received notice of the violations on October 31, 2011.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. By April 30, 2011:
 - i. Cleaned the aeration basin and returned both basins to service;
 - ii. Replaced the 18-inch air supply line header; and
 - iii. Returned to compliance with permitted effluent limits.
- b. On September 21, 2011:
 - i. Replaced the low level float valve on the wet well of the lift station and connected the lift station to the supervisory control and data acquisition system;
 - ii. Pumped the sewage from the creek and cleaned up the discharge;
 - iii. Installed a telephone line and a Sensaphone auto dialer as a backup to the alarm system at the lift station;
 - iv. Constructed concrete monuments on four manholes within the Mason Creek drainage ditch that was the source of the discharge; and
 - v. Removed concrete obstruction in the sewer line up stream of the lift station.

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 discharges of wastewater from a collection system into water in the state, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012644001, Permit Conditions No. 2.g.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012644001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for

violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

5. An administrative penalty in the amount of Thirty-Three Thousand Dollars (\$33,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Thirty-Three Thousand Dollars(\$33,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Thirty-Three Thousand Dollars (\$33,000) 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: City of Leander, Docket No. 2011-2089-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Thirty-Three Thousand Dollars (\$33,000) 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. 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

Pam Dancie Jr.
For the Executive Director

7/27/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Leander. I am authorized to agree to the attached Agreed Order on behalf of the City of Leander, 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, the City of Leander 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.

Kent Cagle
Signature

4/10/2012
Date

Kent Cagle
Name (Printed or typed)
Authorized Representative of
the City of Leander

CITY MANAGER
Title

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

Attachment A
Docket Number: 2011-2089-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Leander
Penalty Amount:	Thirty-Three Thousand Dollars (\$33,000)
SEP Offset Amount:	Thirty-Three Thousand Dollars (\$33,000)
Type of SEP:	Custom
Project Name:	<i>Household Hazardous Waste, Municipal Solid Waste, and Tire Collection Event</i>
Location of SEP:	Williamson 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 hold a one-day event for collecting tires, household hazardous waste, and large, bulky municipal solid waste including, but not limited to paint, used furniture, old mattresses, broken fences, and brush. Respondent shall offer a convenient and supervised drop-off collection site where the public can drop off materials for disposal or recycling at no cost to the citizens. The collection site will be located at 607 Municipal Drive, Leander, Texas 78646. The disposal facility will be Williamson County Landfill (RN105416382; Permit No. 48024) located at 600 Landfill Road, Hutto, Texas 78634. The event will be advertised in a local newspaper to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*, below.

Respondent shall ensure that the collection event:

- occurs on a weekend during daylight hours
- offers to the public a convenient drop-off location
- uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste
- is advertised in at least one newspaper of large circulation in the geographic area and in the City of Leander’s water/wastewater utility bill.

The Respondent shall perform this project including collection, transport, storage, disposal of, or recycling of the collected materials in accordance with practices recommended by TCEQ and in accordance with all applicable federal, state and local laws and regulations. The SEP Offset Amount will be used for equipment, materials, supplies, public announcement of the event, licensed contractor costs, and all disposal and recycling costs.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project and no portion shall be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to 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 providing for the proper disposal of wastes that can leach chemicals into the soil, water and air, as well as help rid communities of the dangers and health threats associated with non-regulated dumping.

The tire collection, recycling and disposal portion of the event will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with illegal tire sites.

The bulky municipal waste and brush collection and disposal portion of the event will provide a discernible environmental benefit by helping to prevent the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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. Respondent is required to submit a copy of its advertisement of the collection event to TCEQ for approval in advance of publication. 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
270	Actions taken during previous 90-day period to implement the project
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 includes:

1. An itemized list of expenditures and total of costs incurred for each collection event;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list required in paragraph 3.B.1., above;
3. Copies of proof of advertisement for the collection event (the advertisement must include the enforcement statement that the SEP was performed as a result of a TCEQ enforcement action);
4. Proof of publication of invitation for (and selection of competitive bids for the project, if applicable, and must include the enforcement statement);
5. Dated photographs of the items collected from the collection event;
6. Map showing exact location(s) of collection site(s) clearly marked. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
7. Tally list of items collected from each collection event, i.e. number of passenger tires, number of truck tires, pounds of brush, gallons of paint, etc.;
8. Manifests are required to demonstrate proof of the proper disposal and/or recycling of the collected items;
9. A certified/notarized statement of quantifiable environmental benefit. Respondent must quantify the environmental benefit of the project; and
10. Any additional information and supporting documentation to demonstrate completion of the project in compliance with this SEP agreement.

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.