

Executive Summary – Enforcement Matter – Case No. 44676
San Antonio Water System
RN100851518
Docket No. 2012-1550-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels protective of human health and/or the environment

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Salado Creek Water Recycling, located approximately 1.5 miles south of the intersection of Southton Road and Blue Wing Road, San Antonio, Bexar County

Type of Operation:

Wastewater treatment facility with an 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: November 23, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$39,375

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: \$39,375

Name of SEP: Texas State University - Continuous Water Quality Monitoring Network

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 44676
San Antonio Water System
RN100851518
Docket No. 2012-1550-MWD-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 19, 2012

Date(s) of NOE(s): May 26, 2012

Violation Information

Failed to prevent the unauthorized discharge of municipal wastewater from the collection system into water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010137008, Permit Conditions No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

a. By March 21, 2012:

i. Dammed the stream approximately seven miles downstream and installed aeration pumps;

ii. Began bypassing the flow from the collapsed main by installing two eight inch diversion pumps to return the wastewater back into the collection system;

iii. Began excavating to clean and disinfect the affected area and dispose of the dead fish; and

iv. Began repairs to the broken sewer main; and

b. By March 29, 2012, cleaned approximately 13,130 linear feet of sewer main and replaced 409 linear feet of sewer main.

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

Executive Summary – Enforcement Matter – Case No. 44676

San Antonio Water System

RN100851518

Docket No. 2012-1550-MWD-E

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Steve Clouse, Chief Operating Officer, San Antonio Water System, 2800 U.S. Highway 281 South, San Antonio, Texas 78212

Meg Conner, Director, Environmental Services, San Antonio Water System, 2800 U.S. Highway 281 South, San Antonio, Texas 78212

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-1550-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	San Antonio Water System
Penalty Amount:	Thirty-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375)
SEP Offset Amount:	Thirty-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375)
Type of SEP:	Contribution to a Pre-Approved Third-Party Recipient
Third-Party Recipient:	Texas State University
Project Name:	<i>Continuous Water Quality Monitoring Network</i>
Location of SEP:	Bandera, Bell, Bexar, Blanco, Burnet, Hays, Lee, Travis, and Williamson Counties; Preference for Williamson County

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

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Texas State University** for the *Continuous Water Quality Monitoring Network* project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to establish, operate and maintain water quality monitoring stations in streams, lakes, rivers, or other water bodies within one hundred miles of San Marcos, Texas. The stations will consist of ambient water quality monitoring instruments, meteorological instruments, and ancillary equipment. The primary objective of these new monitoring stations is to provide continuous monitoring of area water quality. The information collected will be non-regulatory, and will be used to monitor the quality and safety of Texas surface waters, and to assess the state of the environment with real-time or near real-time monitoring data. The SEP Offset Amount will be used to pay for the instrumentation, installation, and maintenance and/or operation of the instrumentation, data validation, software license, and web server costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs.

San Antonio Water System
Agreed Order - Attachment A

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The SEP will provide valuable data to provide information in assessing the state of water quality in area streams, rivers, and lakes, and to provide an early detection system for potential pollution sources. Identifying pollution sources will assist government entities in addressing negative impacts to our sources of recreational and drinking water.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Texas State University SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas State University
Attention: Dr. Glenn Longley
Director of Edwards Aquifer Research and Data Center
601 University Drive, JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, 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.

San Antonio Water System
Agreed Order - Attachment A

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, 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
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, 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.

6. 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.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached 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	9-Jul-2012	Screening	27-Jul-2012	EPA Due	
	PCW	30-Jul-2012				

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

CASE INFORMATION			
Enf./Case ID No.	44676	No. of Violations	1
Docket No.	2012-1550-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	100.0% Enhancement	Subtotals 2, 3, & 7	\$22,500
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Notes: Enhancement for nine NOVs with same/similar violations, two orders without denial, and a repeat violator classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$5,625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$27
Approx. Cost of Compliance	\$20,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$39,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$39,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$39,375
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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	\$39,375
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Screening Date 27-Jul-2012

Docket No. 2012-1550-MWD-E

PCW

Respondent San Antonio Water System

Policy Revision 3 (September 2011)

Case ID No. 44676

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100851518

Media [Statute] Water Quality

Enf. Coordinator JR Cao

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	0	0%
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	2	50%
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) 95%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for nine NOVs with same/similar violations, two orders without denial, and a repeat violator classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 120%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 27-Jul-2012

Docket No. 2012-1550-MWD-E

PCW

Respondent San Antonio Water System

Policy Revision 3 (September 2011)

Case ID No. 44676

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100851518

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010137008, Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharge of municipal wastewater from the collection system into water in the state, as documented during an investigation conducted on March 19, 2012. Beginning March 18 through March 21, 2012, approximately 582,950 gallons of wastewater was discharged from a broken main located behind the Manheim Auto Auction near Ackerman Road and Interstate Highway 10 into Rosillo Creek, resulting in a fish kill of approximately 45 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input checked="" type="checkbox"/>			30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed protective levels as a result of this violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3 Number of violation days 3

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

Violation Base Penalty \$22,500

Three daily events are recommended from the date the discharge began (March 18, 2012) to the date the discharge ended (March 21, 2012).

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$5,625

Extraordinary		
Ordinary	<input checked="" type="checkbox"/>	
N/A		(mark with x)

Notes The Respondent came into compliance on March 29, 2012.

Violation Subtotal \$16,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$27

Violation Final Penalty Total \$39,375

This violation Final Assessed Penalty (adjusted for limits) \$39,375

Economic Benefit Worksheet

Respondent San Antonio Water System
Case ID No. 44676
Reg. Ent. Reference No. RN100851518
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	18-Mar-2012	21-Mar-2012	0.01	\$0	\$5	\$6
Engineering/construction	\$10,000	18-Mar-2012	29-Mar-2012	0.03	\$1	\$20	\$21
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

Estimated costs to construct two dams to contain and isolate the spill, install two eight inch diversion pumps, and install two aeration units to temporarily alleviate the impacted area. In addition, estimated costs to excavate, clean and disinfect the affected area, to remove and dispose of the dead fish, and to replace the broken main. Date required is the start date of the unauthorized discharge. Final dates are the date the discharge ended and the date repairs and clean-up were completed.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$27

Compliance History Report

Customer/Respondent/Owner-Operator: CN600529069 San Antonio Water System Classification: AVERAGE Rating: 3.37

Regulated Entity: RN100851518 SALADO CREEK WATER RECYCLING Classification: AVERAGE Site Rating: 13.11

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

Location: APPROXIMATELY 1.5 MILES SOUTH OF THE INTERSECTION OF SOUTHTON ROAD AND BLUE WING ROAD, SAN ANTONIO, BEXAR COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: August 01, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 01, 2007 to August 01, 2012

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

Name: JR Cao Phone: (512) 239-2543

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: YES

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: 12/04/2010 ADMINORDER 2010-1007-MWD-E
- Classification: Major
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Permit Conditions No. 2.g PERMIT
- Description: Failed to prevent the unauthorized discharge of municipal wastewater into water in the state.
- Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(9)(A)
- Rqmt Prov: Monitoring and Reporting Req. No. 7.a PERMIT
- Description: Failed to report an unauthorized discharge orally or by facsimile transmission within 24 hours of becoming aware the discharge.
- Effective Date: 08/13/2011 ADMINORDER 2010-2084-MWD-E
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Permit Condition No. 2.g PERMIT
- Description: Failed to prevent the unauthorized discharge of municipal wastewater into water in the state.
- 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	07/16/2012	(1019567)	30	08/26/2009	(809366)
2	08/20/2007	(608104)	31	09/18/2009	(809367)
3	02/19/2008	(729070)	32	10/19/2009	(809368)
4	03/19/2008	(729071)	33	11/23/2009	(809369)
5	03/19/2008	(729072)	34	12/17/2009	(809370)
6	04/16/2008	(729073)	35	12/17/2009	(809371)
7	05/19/2008	(729075)	36	08/04/2010	(825833)
8	06/17/2008	(729076)	37	04/12/2010	(832551)
9	06/17/2008	(729077)	38	12/18/2009	(832552)
10	08/18/2008	(729078)	39	06/17/2010	(846791)
11	09/20/2007	(729079)	40	07/19/2010	(861311)
12	09/18/2008	(729080)	41	10/22/2010	(865076)
13	10/19/2007	(729081)	42	10/07/2010	(866147)
14	10/17/2008	(729082)	43	03/17/2010	(867473)
15	11/19/2007	(729083)	44	08/17/2010	(867474)
16	11/19/2008	(729084)	45	12/06/2010	(879237)
17	01/02/2008	(729085)	46	01/26/2011	(885899)
18	12/18/2008	(729086)	47	01/03/2011	(886826)
19	01/16/2008	(729087)	48	01/26/2011	(887553)
20	08/18/2008	(729088)	49	02/07/2011	(890777)
21	02/20/2009	(769902)	50	04/01/2011	(900507)
22	03/20/2009	(769903)	51	04/21/2011	(908411)
23	04/20/2009	(769904)	52	09/15/2010	(926735)
24	03/20/2009	(769905)	53	08/17/2010	(926736)
25	05/25/2010	(801114)	54	09/12/2011	(951983)
26	05/26/2010	(803532)	55	12/08/2011	(970648)
27	02/18/2010	(809363)	56	03/12/2012	(989917)
28	05/27/2009	(809364)	57	07/02/2012	(994858)
29	07/23/2009	(809365)			

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

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

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

Date: 10/13/2010 (865076) CN600529069
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Operational Requirements (1) PERMIT

Description: Failure of permittee to prevent the unauthorized discharge of municipal wastewater from the collection system located over the Edwards Aquifer Recharge Zone.

Date: 10/15/2010 (866147) CN600529069

Self Report? NO Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure of the permittee to prevent the unauthorized discharge of wastewater from its collection system located near Holbrook Rd and IH 35 in Bexar County, Texas.

Date: 12/10/2010 (879237) CN600529069

Self Report? NO Classification: Moderate

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

Description: Failure by the San Antonio Water Systems to prevent the unauthorized discharge of wastewater from the Feathercrest lift station #11 located at 3847 Thousand Oaks in San Antonio, Texas on November 10, 2010.

Date: 01/26/2011 (885899) CN600529069

Self Report? NO Classification: Moderate

Citation: Operational Requirements PERMIT
TWC Chapter 26 26.121

Description: Failure to prevent the unauthorized discharge of wastewater from the Salado Creek collection system. The permittee reported approximately 137 overflows during the previous year.

Date: 01/27/2011 (887553) CN600529069

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121

Description: Failure of the permittee to prevent the unauthorized discharge of wastewater from its collection lines.

Date: 04/01/2011 (900507) CN600529069

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements (1) PERMIT

Description: Failure of the permittee (San Antonio Water System) to prevent the unauthorized discharge of wastewater from its collection line located near 103 Morgans Circle on February 20, 2011 until February 21, 2011.

Date: 12/09/2011 (970648) CN600529069

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Operational Requirements (1) PERMIT

Description: Failure of the permittee to prevent the unauthorized discharge of wastewater from its collection system located at Wurzbach Parkway and Salado Creek.

F. Environmental audits.

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SAN ANTONIO WATER SYSTEM
RN100851518

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2012-1550-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 San Antonio Water System (“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 with an associated collection system located approximately 1.5 miles south of the intersection of Southton Road and Blue Wing Road in San Antonio, Bexar 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 March 19, 2012, TCEQ staff documented that beginning March 18 through March 21, 2012, approximately 582,950 gallons of wastewater was discharged from a broken main located behind the Manheim Auto Auction near Ackerman Road and Interstate Highway 10 into Rosillo Creek, resulting in a fish kill of approximately 45 fish.
4. The Respondent received notice of the violations on June 29, 2012.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By March 21, 2012,
 - i. Dammed the stream approximately seven miles downstream and installed aeration pumps;
 - ii. Began bypassing the flow from the collapsed main by installing two eight inch diversion pumps to return the wastewater back into the collection system;
 - iii. Began excavating to clean and disinfect the affected area and dispose of the dead fish;
 - iv. Began repairs to the broken sewer main; and
 - b. By March 29, 2012, cleaned approximately 13,130 linear feet of sewer main and replaced 409 linear feet of sewer main.

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 municipal wastewater from the collection system into water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010137008, Permit Conditions No. 2.g.
3. 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.

4. An administrative penalty in the amount of Thirty-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375) 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-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375) 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-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: San Antonio Water System, Docket No. 2012-1550-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 4 above, Thirty-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375) of the assessed administrative penalty shall be offset with the condition that the Respondent implements 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

Paulo Sam Jr
For the Executive Director

2/14/13

Date

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

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

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

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

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

Steve Clouse
Signature

9-27-12
Date

Steve Clouse
Name (Printed or typed)
Authorized Representative of
San Antonio Water System

Chief Operating Officer
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: 2012-1550-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	San Antonio Water System
Penalty Amount:	Thirty-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375)
SEP Offset Amount:	Thirty-Nine Thousand Three Hundred Seventy-Five Dollars (\$39,375)
Type of SEP:	Contribution to a Pre-Approved Third-Party Recipient
Third-Party Recipient:	Texas State University
Project Name:	<i>Continuous Water Quality Monitoring Network</i>
Location of SEP:	Bandera, Bell, Bexar, Blanco, Burnet, Hays, Lee, Travis, and Williamson Counties; Preference for Williamson County

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

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Texas State University** for the *Continuous Water Quality Monitoring Network* project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to establish, operate and maintain water quality monitoring stations in streams, lakes, rivers, or other water bodies within one hundred miles of San Marcos, Texas. The stations will consist of ambient water quality monitoring instruments, meteorological instruments, and ancillary equipment. The primary objective of these new monitoring stations is to provide continuous monitoring of area water quality. The information collected will be non-regulatory, and will be used to monitor the quality and safety of Texas surface waters, and to assess the state of the environment with real-time or near real-time monitoring data. The SEP Offset Amount will be used to pay for the instrumentation, installation, and maintenance and/or operation of the instrumentation, data validation, software license, and web server costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs.

San Antonio Water System
Agreed Order - Attachment A

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The SEP will provide valuable data to provide information in assessing the state of water quality in area streams, rivers, and lakes, and to provide an early detection system for potential pollution sources. Identifying pollution sources will assist government entities in addressing negative impacts to our sources of recreational and drinking water.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall make the check payable to **Texas State University SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas State University
Attention: Dr. Glenn Longley
Director of Edwards Aquifer Research and Data Center
601 University Drive, JCK 420
San Marcos, Texas 78666

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, 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.

San Antonio Water System
Agreed Order - Attachment A

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, 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
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP and/or project, 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.

6. 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.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached 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.