

Executive Summary – Enforcement Matter – Case No. 42595
North Texas Municipal Water District
RN101701332 and RN102095585
Docket No. 2011-1738-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:

South Mesquite Sewage Treatment (“Facility 1”), located approximately 0.5 mile south of the intersection of Lawson Road and Cartwright Road in the southeast portion of Mesquite, Dallas County

Wilson Creek Plant (“Facility 2”), located southwest of Wilson Creek at the confluence with Lake Lavon and approximately five miles southeast of McKinney, Collin County

Type of Operation:

Wastewater treatment plants

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 26, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$46,937

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: \$46,937

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. - Water or Wastewater Treatment Assistance

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source (RN101701332, Facility 1): Yes

Major Source (RN102095585, Facility 2): Yes (permitted) and No (discharges)

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 17, 2011, September 29, 2011, and November 2, 2011

Date(s) of NOE(s): August 25, 2011 and October 7, 2011

Violation Information

1. Failed to comply with the permitted effluent limitations at Facility No. 1 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010221001 Interim I Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to prevent the unauthorized discharge of untreated wastewater from the collection system at Facility No. 2 [TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. WQ0012446001 Permit Conditions No. 2.g.].

3. Failed to notify the TCEQ Dallas/Fort Worth Regional office within 24 hours of the unauthorized discharge of approximately 34,000 gallons of wastewater from the collection system at Facility No. 2 [TEX. WATER CODE § 26.039(b), 30 TEX. ADMIN. CODE § 305.125(9)(A), and TPDES Permit No. WQ0012446001 Monitoring and Reporting Requirements No. 7].

4. Failed to comply with the permitted effluent limitations at Facility No. 2 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012446001 Interim I Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facilities:

a. At Facility No. 1:

i. By July 31, 2011, replaced the aeration piping system;

ii. By July 31, 2011, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0010221001; and

iii. By September 15, 2011, replaced the blower control and blower instrumentation.

b. At Facility No. 2:

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- i. By July 31, 2011, purchased and installed ultraviolet system upgrades to address *E. coli* exceedances, and repaired and/or replaced four aeration blowers to address ammonia nitrogen exceedances; and
- ii. By September 26, 2011, stopped the discharge, collected debris, and removed and properly disposed of the dead fish associated with the unauthorized discharge at the Preston Road lift station.

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
2. The Order will also require Respondent to:
 - a. Within 30 days, update operational guidance and conduct employee training to ensure the timely submittal of noncompliance notifications;
 - b. Within 45 days, submit written certification of compliance with Ordering Provision a.; and
 - c. Within 180 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012446001 (Facility No. 2), including specific corrective actions that were implemented at Facility No. 2 to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: James M. Parks, Executive Director, North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098

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Respondent's Attorney: Brad Castleberry, Attorney, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701

Attachment A
Docket Number: 2011-1738-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: North Texas Municipal Water District

Payable Penalty Amount: Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937)

SEP Amount: Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Water or Wastewater Treatment Assistance

Location of SEP: Dallas and Collin Counties

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 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 Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

North Texas Municipal Water District
Agreed Order Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

Respondent shall contribute at least the SEP 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 amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

North Texas Municipal Water District
Agreed Order Attachment A

The check for any amount due shall be made out to Texas Commission on Environmental Quality and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. 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.

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 identified in this Agreed Order has not been, and shall not be, included as an 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)

DATES	Assigned	6-Sep-2011
	PCW	17-Nov-2011
	Screening	20-Sep-2011
	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	North Texas Municipal Water District (Facility No. 1)
Reg. Ent. Ref. No.	RN101701332
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	42595	Order Type	Findings
Docket No.	2011-1738-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Jennifer Graves
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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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	71.0% Enhancement	Subtotals 2, 3, & 7
Notes	Enhancement for 11 months of self-reported effluent violations, two NOVs with same/similar violations, and three NOVs with dissimilar violations.	
		\$7,100

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	\$2,500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$34,783	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$596,615		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Notes	Reduces or enhances the Final Subtotal by the indicated percentage.		
		Final Penalty Amount	\$14,600

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,600
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DEFERRAL	0.0% Reduction	Adjustment	\$0
Notes	Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)		
	No deferral is recommended for Findings Orders.		

PAYABLE PENALTY	\$14,600
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Screening Date 20-Sep-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No. 1)

Policy Revision 2 (September 2002)

Case ID No. 42595

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101701332

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	13	65%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for 11 months of self-reported effluent violations, two NOVs with same/similar violations, and three NOVs with dissimilar violations.

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

Screening Date 20-Sep-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No. 1)

Policy Revision 2 (September 2002)

Case ID No. 42595

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101701332

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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 ("TPDES") Permit No. WQ0010221001 Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on August 17, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				0%

Matrix Notes

A simplified model was used to evaluate five-day carbonaceous biochemical oxygen demand ("CBOD₅") and 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 insignificant amounts 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 4 152 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction \$2,500

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

Notes The Respondent achieved compliance by July 31, 2011.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$34,783

Statutory Limit Test

Violation Final Penalty Total \$14,600

This violation Final Assessed Penalty (adjusted for limits) \$14,600

Economic Benefit Worksheet

Respondent North Texas Municipal Water District (Facility No. 1)
Case ID No. 42595
Reg. Ent. Reference No. RN101701332
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$596,615	30-Sep-2010	31-Jul-2011	0.83	\$1,656	\$33,127	\$34,783
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: Estimated cost to replace the aeration piping system. Date required is the initial month of noncompliance. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$596,615	TOTAL	\$34,783
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EFFLUENT VIOLATION TABLE

North Texas Municipal Water District

TPDES Permit No. WQ0010221001 Facility 1

Docket No. 2011-1738-MWD-E

Months	CBOD ₅ Daily Max. Conc.	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Max. Conc.	NH ₃ -N Daily Avg. Loading
	Limit = 25 mg/L	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 626 lbs/day
September 2010	c	c	10.7	c
December 2010	c	4.54	12.68	c
April 2011	c	4.48	10.84	682.12
May 2011	c	5.21	11.16	905.51
June 2011	26.1	3.81	c	c

CBOD₅ = five-day carbonaceous biochemical oxygen demand Avg. = Average
 NH₃-N = ammonia nitrogen mg/L = milligrams per liter
 Max. = Maximum lbs/day = pounds per day
 Conc. = Concentration c = compliant

Compliance History

Customer/Respondent/Owner-Operator: CN601365448 North Texas Municipal Water District Classification: AVERAGE Rating: 1.87
 Regulated Entity: RN101701332 SOUTH MESQUITE SEWAGE TREATMENT Classification: AVERAGE Site Rating: 0.87

ID Number(s):	WASTEWATER	PERMIT	WQ0010221001
	WASTEWATER	EPA ID	TX0047431
	PRETREATMENT	PERMIT	WQ0010221001
	PRETREATMENT	EPA ID	TX0047431000
	STORMWATER	PERMIT	TXR05U127
	STORMWATER	PERMIT	TXR15NU41
	WASTEWATER LICENSING	LICENSE	WQ0010221001

Location: APPROX 0.5 M S OF THE INTX OF
 LAWSON RD AND CARTWRIGHT
 RD IN THE SE PORTION OF THE
 CITY OF MESQUITE, DALLAS CO, TX

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: December 01, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 01, 2006 to December 01, 2011

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

Name: Jennifer Graves Phone: (956) 430-6023

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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 12/29/2006 | (535091) |
| 2 | 01/31/2007 | (538252) |
| 3 | 12/27/2006 | (547872) |
| 4 | 02/22/2007 | (580706) |
| 5 | 03/22/2007 | (580707) |
| 6 | 02/22/2007 | (580708) |
| 7 | 05/23/2007 | (580709) |
| 8 | 06/22/2007 | (580710) |
| 9 | 02/22/2007 | (580711) |

10 08/29/2007 (608054)
 11 09/21/2007 (608055)
 12 09/21/2007 (608056)
 13 09/21/2007 (608057)
 14 11/26/2007 (621606)
 15 12/18/2007 (621607)
 16 02/25/2008 (673551)
 17 03/24/2008 (673552)
 18 02/25/2008 (673553)
 19 02/25/2008 (673554)
 20 08/29/2008 (687672)
 21 05/22/2008 (691825)
 22 06/23/2008 (691826)
 23 08/25/2008 (712792)
 24 09/23/2008 (712793)
 25 02/11/2009 (721080)
 26 02/19/2009 (724869)
 27 10/20/2008 (728986)
 28 11/24/2008 (728987)
 29 12/19/2008 (728988)
 30 11/24/2008 (728989)
 31 03/28/2009 (740135)
 32 02/24/2009 (752137)
 33 03/17/2009 (752138)
 34 02/24/2009 (752139)
 35 02/24/2009 (752140)
 36 02/12/2009 (758995)
 37 04/14/2009 (758996)
 38 02/22/2010 (809129)
 39 05/21/2009 (809130)
 40 06/23/2009 (809131)
 41 08/21/2009 (809132)
 42 09/22/2009 (809133)
 43 10/21/2009 (809134)
 44 11/23/2009 (809135)
 45 12/21/2009 (809136)
 46 11/23/2009 (809137)
 47 03/19/2010 (832490)
 48 04/22/2010 (832491)
 49 05/24/2010 (832492)
 50 06/21/2010 (846769)
 51 05/24/2010 (861293)
 52 08/20/2010 (867447)
 53 11/22/2010 (872600)
 54 09/22/2010 (874469)
 55 08/20/2010 (882050)
 56 01/06/2011 (896857)
 57 12/22/2010 (896859)
 58 01/05/2011 (902815)
 59 02/22/2011 (909656)
 60 03/21/2011 (916877)
 61 02/28/2011 (926651)
 62 05/20/2011 (938591)
 63 06/21/2011 (945963)
 64 08/30/2011 (949366)
 65 05/20/2011 (953218)
 66 08/19/2011 (959859)
 67 10/17/2011 (962721)
 68 09/22/2011 (965900)

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

Date: 03/31/2007 (580708) CN601365448
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (580709) CN601365448
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (580710) CN601365448
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/26/2007 (687672)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(1)(iii)
Description: The control authority failed to control the wastewater discharge from Metals USA Building Products, L.P., with an enforceable permit for over one year.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(i)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(ii)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iii)
Description: The CA failed to adequately review the slug discharge control plan submitted by Fritz Industries, Inc., on November 2, 2006 and the self-monitoring report submitted by Metals USA for August 2006.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)
Description: The CA failed to identify, document, issue a timely enforceable order, and contact Durango-McKinley Paper Co. in a timely manner regarding wastewater violations of the technically based local limit (TBLL) for copper and for failure to submit a timely permit renewal application. The CA failed to initiate an enforcement action against Fritz Industries, Inc., for the wastewater discharge violation that occurred in January 2007.

Date: 12/31/2008 (728989) CN601365448
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: 02/12/2009 (758995) CN601365448
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 02/19/2009 (724869) CN601365448
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)
WQ10221-001 PERMIT
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ10221-001 PERMIT
 Description: Failure to comply with ammonia nitrogen and TSS effluent limits.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)
 WQ10221-001 PERMIT
 Description: Failure to adequately operate aeration basins.

Date: 04/14/2009 (758996) CN601365448
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 04/30/2010 (832492) CN601365448
 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 (846769) CN601365448
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2010 (882050) CN601365448
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/19/2010 (872600) CN601365448
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with permitted effluent limits.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the permitted effluent limits.

Date: 12/31/2010 (902815) CN601365448
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2011 (938591) CN601365448
 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: 05/31/2011 (945963) CN601365448
 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: 06/30/2011 (953218)

CN601365448

Self Report? YES

Classification: Moderate

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

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

F. Environmental audits.

N/A

G. Type of environmental management systems (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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Nov-2011	Screening	4-Nov-2011	EPA Due	
	PCW	17-Apr-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	North Texas Municipal Water District (Facility No. 2)
Reg. Ent. Ref. No.	RN102095585
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	42595	No. of Violations	2
Docket No.	2011-1738-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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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	61.0% Enhancement	Subtotals 2, 3, & 7	\$7,625
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Notes
Enhancement for nine months of self-reported effluent violations, two NOVs with same/similar violations, and three NOVs with dissimilar violations.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$33,416
Approx. Cost of Compliance \$220,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,125
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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	\$20,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,125
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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	\$20,125
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Screening Date 4-Nov-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No. 2)

Policy Revision 2 (September 2002)

Case ID No. 42595

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102095585

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	11	55%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 61%

>> 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 nine months of self-reported effluent violations, two NOVs with same/similar violations, and three NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 61%

Screening Date 4-Nov-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No. 2)

Policy Revision 2 (September 2002)

Case ID No. 42595

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102095585

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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 ("TPDES") Permit No. WQ0012446001 Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on November 2, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate flow and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Escherichia coli was also considered. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 122 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33,416

Violation Final Penalty Total \$12,075

This violation Final Assessed Penalty (adjusted for limits) \$12,075

Economic Benefit Worksheet

Respondent North Texas Municipal Water District (Facility No. 2)
Case ID No. 42595
Reg. Ent. Reference No. RN102095585
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)	\$220,000	31-Oct-2010	31-Dec-2012	2.17	\$1,591	\$31,825	\$33,416
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

Estimated cost to purchase and install ultraviolet system upgrades to address E. coli exceedances and to repair and/or replace four aeration blowers to address ammonia nitrogen exceedances. Date required is the initial month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$220,000

TOTAL

\$33,416

Screening Date 4-Nov-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No. 2)

Policy Revision 2 (September 2002)

Case ID No. 42595

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102095585

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012446001 Interim I Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review on November 2, 2011, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

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

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,050

This violation Final Assessed Penalty (adjusted for limits) \$8,050

Economic Benefit Worksheet

Respondent North Texas Municipal Water District (Facility No. 2)
Case ID No. 42595
Reg. Ent. Reference No. RN102095585
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	10-Oct-2011	Screening	24-Oct-2011	EPA Due	
	PCW	17-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	North Texas Municipal Water District (Facility No. 2)		
Reg. Ent. Ref. No.	RN102095585		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42595	No. of Violations	2
Docket No.	2011-1738-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes:

Culpability Enhancement **Subtotal 4**

Notes:

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$12
Approx. Cost of Compliance	\$1,350

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes:

PAYABLE PENALTY

Screening Date 24-Oct-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No.

Policy Revision 3 (September 2011)

Case ID No. 42595

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102095585

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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>)	11	55%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for nine months of self-reported effluent violations, two NOVs with same/similar violations, and three NOVs with dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 24-Oct-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No. 2)

Policy Revision 3 (September 2011)

Case ID No. 42595

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102095585

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012446001 Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of untreated wastewater from the collection system. Specifically, on September 25, 2011, approximately 34,000 gallons of untreated wastewater was discharged from the Preston Road lift station into White Rock Creek resulting in a fish kill of approximately 20 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			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 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 1 Number of violation days 1

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One daily event is recommended from the date the unauthorized discharge began (September 25, 2011) to the date of compliance (September 26, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes The Respondent achieved compliance by September 26, 2011.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$10,200

This violation Final Assessed Penalty (adjusted for limits) \$10,200

Economic Benefit Worksheet

Respondent North Texas Municipal Water District (Facility No. 2)
Case ID No. 42595
Reg. Ent. Reference No. RN102095585
Media Water Quality
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	25-Sep-2011	26-Sep-2011	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 cost to stop the discharge, collect the debris, and remove and properly dispose of the dead fish. Date required is the date the unauthorized discharge began. Final date is the date the affected area was cleaned and disinfected and the dead fish were removed and properly disposed of.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$0

Screening Date 24-Oct-2011

Docket No. 2011-1738-MWD-E

PCW

Respondent North Texas Municipal Water District (Facility No. 2)

Policy Revision 3 (September 2011)

Case ID No. 42595

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102095585

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.039(b), 30 Tex. Admin. Code § 305.125(9)(A), and TPDES Permit No. WQ0012446001 Monitoring and Reporting Requirements No. 7

Violation Description

Failed to notify the TCEQ Dallas/Fort Worth Region office within 24 hours of the unauthorized discharge of approximately 34,000 gallons of wastewater from the Respondent's collection system. Specifically, the TCEQ Dallas/Fort Worth Region office was not initially notified of the unauthorized discharge which occurred at approximately 9:00 a.m. on September 25, 2011 until approximately 1:30 p.m. on September 26, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$2,013

This violation Final Assessed Penalty (adjusted for limits) \$2,013

Economic Benefit Worksheet

Respondent North Texas Municipal Water District (Facility No. 2)
Case ID No. 42595
Reg. Ent. Reference No. RN102095585
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	26-Sep-2011	31-Aug-2012	0.93	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	26-Sep-2011	26-Sep-2011	0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost for updating the Facility's operational guidance. Date required is the date the notice of the unauthorized discharge was due. Final date is the expected date of compliance. Estimated cost for providing the required notice to the TCEQ. Date required is the date the notice was due. Final date is the date the notice was submitted.

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

\$350

TOTAL

\$12

EFFLUENT VIOLATION TABLE
 North Texas Municipal Water District
 TPDES Permit No. WQ0010221001 Facility 2
 Docket No. 2011-1738-MWD-E

Months	<i>E.coli</i> Daily Max.	Flow 2 Hour Peak	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Daily Max. Conc.
	Limit = 394 CFU/100 mL	Limit = 83,333 gal/min	Limit = 2.0 mg/L	Limit = 10.0 mg/L
October 2010	517	c	c	c
November 2010	1,553	c	c	c
March 2011	c	c	2.01	12.32
May 2011	c	94,985	c	c
<i>E.coli</i> = <i>Escherichia coli</i> Max. = Maximum Avg. = Average Conc. = Concentration			CFU/100 mL = colony-forming units per 100 milliliters gal/min = gallons per minute mg/L = milligrams per liter c = compliant	

Compliance History

Customer/Respondent/Owner-Operator: CN601365448 North Texas Municipal Water District Classification: AVERAGE Rating: 1.87
Regulated Entity: RN102095585 WILSON CREEK PLANT Classification: AVERAGE Site Rating: 0.67
ID Number(s): WASTEWATER PERMIT WQ0012446001
WASTEWATER EPA ID TX0088633
PRETREATMENT PERMIT WQ0012446001
PRETREATMENT EPA ID TX0088633000
WASTEWATER LICENSING LICENSE WQ0012446001
Location: SW OF WILSON CREEK AT THE CONFLUENCE
WITH LAKE LAVON AND APPROX 5 MILES SE
OF MCKINNEY, COLLIN CO, TX
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: December 1, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 1, 2006 to December 1, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jennifer Graves Phone: (956) 430-6023

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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/20/2007	(556935)
2	01/11/2008	(609997)
3	06/14/2008	(681646)
4	02/21/2007	(771559)
5	02/21/2008	(771560)
6	02/23/2009	(771561)
7	03/16/2007	(771563)
8	03/16/2009	(771564)
9	03/21/2008	(771565)
10	04/20/2007	(771567)
11	04/21/2008	(771568)
12	04/20/2009	(771569)
13	05/21/2007	(771572)
14	05/21/2008	(771573)
15	06/20/2007	(771576)
16	06/23/2008	(771577)
17	07/23/2007	(771579)

18 06/23/2008 (771580)
 19 03/16/2009 (771581)
 20 08/29/2007 (771584)
 21 08/28/2008 (771585)
 22 09/21/2007 (771588)
 23 09/22/2008 (771589)
 24 10/19/2007 (771592)
 25 10/20/2008 (771593)
 26 11/22/2006 (771595)
 27 11/21/2007 (771596)
 28 11/20/2008 (771597)
 29 12/22/2006 (771599)
 30 12/18/2007 (771600)
 31 12/17/2008 (771601)
 32 11/22/2006 (771603)
 33 01/22/2008 (771604)
 34 01/21/2009 (771605)
 35 05/12/2008 (774869)
 36 08/08/2008 (774870)
 37 10/09/2009 (777982)
 38 11/24/2009 (783873)
 39 05/17/2010 (796882)
 40 05/27/2010 (800395)
 41 05/24/2010 (834400)
 42 04/22/2010 (845296)
 43 06/21/2010 (847352)
 44 08/20/2010 (849233)
 45 08/30/2010 (850643)
 46 07/20/2010 (861788)
 47 08/20/2010 (868208)
 48 09/22/2010 (875123)
 49 09/22/2010 (882737)
 50 11/22/2010 (897521)
 51 01/21/2011 (903410)
 52 02/22/2011 (910325)
 53 03/23/2011 (910326)
 54 03/21/2011 (917536)
 55 02/22/2010 (928623)
 56 03/19/2010 (928624)
 57 04/21/2011 (928625)
 58 11/09/2009 (928626)
 59 06/23/2009 (928627)
 60 08/21/2009 (928628)
 61 09/22/2009 (928629)
 62 10/21/2009 (928630)
 63 11/23/2009 (928631)
 64 12/21/2009 (928632)
 65 09/22/2009 (928633)
 66 05/20/2011 (939233)
 67 06/21/2011 (946654)
 68 04/21/2011 (953912)
 69 10/06/2011 (958206)
 70 08/19/2011 (960505)

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

Date: 11/07/2007 (609997) CN601365448
 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 a discharge into or adjacent to any water in the state.

Date: 03/31/2008 (771568) CN601365448
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: 05/12/2008 (774869) CN601365448
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 07/31/2008 (771585) CN601365448
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: 08/08/2008 (774870) CN601365448
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 10/09/2009 (777982) CN601365448
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with NH3N, TSS, and Fecal Coliform bacteria effluent permit limits.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to maintain dissolved oxygen meter calibration documentation.

Date: 01/31/2010 (928623) CN601365448
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: 05/28/2010 (800395) CN601365448
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403.403.8(f)(2)(vii)
Description: Failure to ensure that sample collection and analysis is performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403.403.8(f)(5)
Description: Failure to follow the approved Enforcement Response Plan.

Date: 06/30/2010 (861788) CN601365448
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2010 (882737) CN601365448
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 (897521) CN601365448
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2010 (910326) CN601365448
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 (928625) CN601365448
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: 05/31/2011 (946654) CN601365448
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
NORTH TEXAS MUNICIPAL WATER	§	
DISTRICT	§	
RN101701332 AND RN102095585	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-1738-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 North Texas Municipal Water District (“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 represented by Mr. Brad Castleberry of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C., 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 plant (“Facility No. 1”) located approximately 0.5 mile south of the intersection of Lawson Road and Cartwright

Road in the southeast portion of Mesquite, Dallas County, Texas and a wastewater treatment plant ("Facility No. 2") located southwest of Wilson Creek at the confluence with Lake Lavon and approximately five miles southeast of McKinney, Collin County, Texas (the "Facilities").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review conducted on August 17, 2011 for Facility No. 1, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports ("DMRs"):

EFFLUENT VIOLATION TABLE				
Months	CBOD ₅ Daily Max. Conc.	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Max. Conc.	NH ₃ -N Daily Avg. Loading
	Limit = 25 mg/L	Limit = 3 mg/L	Limit = 10 mg/L	Limit = 626 lbs/day
September 2010	c	c	10.7	c
December 2010	c	4.54	12.68	c
April 2011	c	4.48	10.84	682.12
May 2011	c	5.21	11.16	905.51
June 2011	26.1	3.81	c	c

CBOD₅ = five-day carbonaceous biochemical oxygen demand Avg. = Average
 NH₃-N = ammonia nitrogen mg/L = milligrams per liter
 Max. = Maximum lbs/day = pounds per day
 Conc. = Concentration c = compliant

4. During a record review conducted on September 29, 2011 for Facility No. 2, TCEQ staff documented that approximately 34,000 gallons of untreated wastewater was discharged on September 25, 2011 from the Preston Road lift station into White Rock Creek resulting in a fish kill of approximately 20 fish.
5. During a record review conducted on September 29, 2011 for Facility No. 2, TCEQ staff documented that notification of the unauthorized discharge that occurred on September 25, 2011 was not submitted to the TCEQ Dallas/Fort Worth office within 24 hours. Specifically, the TCEQ Dallas/Fort Worth Region office was not initially notified of the unauthorized discharge which occurred at approximately 9:00 a.m. on September 25, 2011 until approximately 1:30 p.m. on September 26, 2011.
6. During a record review conducted on November 2, 2011, for Facility No. 2, TCEQ staff documented the following from the self-reported monthly DMRs:

EFFLUENT VIOLATION TABLE				
Months	<i>E.coli</i> Daily Max.	Flow 2 Hour Peak	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Daily Max. Conc.
	Limit = 394 CFU/100 mL	Limit = 83.333 gal/min	Limit = 2.0 mg/L	Limit = 10.0 mg/L
October 2010	517	c	c	c
November 2010	1,553	c	c	c
March 2011	c	c	2.01	12.32
May 2011	c	94,985	c	c
<i>E.coli</i> = <i>Escherichia coli</i> Max. = Maximum Avg. = Average Conc. = Concentration			CFU/100 mL = colony-forming units per 100 milliliters gal/min = gallons per minute mg/L = milligrams per liter c = compliant	

7. The Respondent received notices of the violations on August 29, 2011 and October 10, 2011.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facilities:
 - a. At Facility No. 1:
 - i. By July 31, 2011, replaced the aeration piping system at Facility No. 1; and
 - ii. By July 31, 2011, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010221001.
 - b. At Facility No. 2:
 - i. By July 31, 2011, purchased and installed ultraviolet system upgrades to address *E. coli* exceedances, and repaired and/or replaced four aeration blowers to address ammonia nitrogen exceedances; and
 - ii. By September 26, 2011, stopped the discharge, collected debris, and removed and properly disposed of the dead fish associated with the unauthorized discharge at the Preston Road 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 comply with the permitted effluent limitations at Facility No. 1, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010221001 Interim I Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the unauthorized discharge of untreated wastewater from the collection system at Facility No. 2, in violation of TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. WQ0012446001 Permit Conditions No. 2.g.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to notify the TCEQ Dallas/Fort Worth Region office within 24 hours of the unauthorized discharge of approximately 34,000 gallons of wastewater from the collection system at Facility No. 2, in violation of TEX. WATER CODE § 26.039(b), 30 TEX. ADMIN. CODE § 305.125(9)(A), and TPDES Permit No. WQ0012446001 Monitoring and Reporting Requirements No. 7.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to comply with the permitted effluent limitations at Facility No. 2, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0012446001 Interim I Effluent Limitations and Monitoring Requirements No. 1.
6. 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.
7. An administrative penalty in the amount of Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b) and TEX. WATER CODE § 7.053. Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937) 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 Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937) as set forth in Section II, Paragraph 7 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: North Texas Municipal Water District, Docket No. 2011-1738-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 7, Conclusions of Law, above, Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update operational guidance and conduct employee training to ensure the timely submittal of noncompliance notifications as required by TEX. WATER CODE § 26.039(b) and TPDES Permit No. WQ0012446001 Monitoring and Reporting Requirements No. 7;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 3.a, in accordance with Ordering Provision No. 3.c; and
 - c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012446001 (Facility No. 2), including specific corrective actions that were implemented at Facility No. 2 to achieve compliance and copies of the most

current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities' operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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

Paul Jones Jr.
For the Executive Director

2/14/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of North Texas Municipal Water District. I am authorized to agree to the attached Agreed Order on behalf of North Texas Municipal Water District, 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, North Texas Municipal Water District 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.

James M. Parks
Signature

James M. Parks
Name (Printed or typed)
Authorized Representative of
North Texas Municipal Water District

EXECUTIVE DIRECTOR

Date July 3, 2012
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: 2011-1738-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: North Texas Municipal Water District

Payable Penalty Amount: Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937)

SEP Amount: Forty-Six Thousand Nine Hundred Thirty-Seven Dollars (\$46,937)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”) - Water or Wastewater Treatment Assistance

Location of SEP: Dallas and Collin Counties

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 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 Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

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B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

Respondent shall contribute at least the SEP 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 amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

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The check for any amount due shall be made out to Texas Commission on Environmental Quality and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. 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.

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 identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.