

**Executive Summary – Enforcement Matter – Case No. 44802  
OB-GYN and Anaesthesia Associates, P.A.  
RN104737234  
Docket No. 2012-1686-EAQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

EAQ

**Small Business:**

Yes

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

Lotus Building, 19323 Stone Oak Parkway, San Antonio, Bexar County

**Type of Operation:**

Medical office building

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** January 11, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,500

**Amount Deferred for Expedited Settlement:** \$1,900

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

**Total Paid to General Revenue:** \$760

**Total Due to General Revenue:** \$6,840

Payment Plan: 9 payments of \$760 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 44802**  
**OB-GYN and Anaesthesia Associates, P.A.**  
**RN104737234**  
**Docket No. 2012-1686-EAQ-E**

***Investigation Information***

**Complaint Date(s):** May 22, 2012

**Complaint Information:** Alleged there are no filters installed in the water basin.

**Date(s) of Investigation:** June 15, 2012

**Date(s) of NOE(s):** August 17, 2012

***Violation Information***

1. Failed to submit proof of deed recordation to the TCEQ San Antonio Regional Office within 60 days of Water Pollution Abatement Plan ("WPAP") No. 13-05081706 approval [30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 13-05081706, Standard Conditions No. 2].
2. Failed to submit the required notification to commence construction to the TCEQ San Antonio Regional Office no later than 48 hours prior to commencement of a regulated activity [30 TEX. ADMIN. CODE § 213.5(f)(1) and WPAP No. 13-05081706, Standard Conditions No. 5].
3. Failed to maintain operation and maintenance records for the Site [30 TEX. ADMIN. CODE § 213.4(k) and WPAP 13-05081706, Standard Conditions No. 12].
4. Failed to obtain approval of a modification to an approved WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone. Specifically, Respondent constructed the AquaLogic filtration housings (without filters) and drain within the sedimentation basin, instead of in the filtration basin, which circumvented the 30-hour retention time in the sedimentation basin allowing for a direct discharge of untreated stormwater to the receiving stream; and the control panel, rain gauge, and bladder valve were absent during the investigation [30 TEX. ADMIN. CODE § 213.4(j) and WPAP No. 13-05081706, Standard Conditions No. 4].
5. Failed to maintain the permanent best management practices ("PBMPs") at the Site. Specifically, excessive erosion was evident under the 4-inch diameter discharge conduit from the sedimentation basin; the outfall was not protected by a uniformly dense layer of rock; and there were no filters within the filter housings of the AquaLogic filtration system [30 TEX. ADMIN. CODE § 213.5(b)(5)(A) and WPAP No. 13-05081706, Standard Conditions No. 15].
6. Failed to prevent the discharge of stormwater into or adjacent to water in the state. Specifically, stormwater from portions of the western and southeastern parking lots are being discharged off-site without treatment and not in accordance with the approved design and stormwater from a portion of the western parking lot also discharges untreated to a sensitive feature [TEX. WATER CODE § 26.121].

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**OB-GYN and Anaesthesia Associates, P.A.**  
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**Docket No. 2012-1686-EAQ-E**

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

a. Immediately, cease discharging untreated stormwater into the sensitive feature and begin discharging all stormwater in accordance with the approved design.

b. Within 15 days:

i. Submit proof of deed recordation to the TCEQ San Antonio Regional Office for the Site; and

ii. Submit the required notification to commence construction to the TCEQ San Antonio Regional Office.

c. Within 30 days, submit an administratively complete WPAP modification application for WPAP No. 13-05081706 to the TCEQ;

d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the WPAP modification application within 30 days after the date of such requests or by any other deadline specified in writing;

e. Within 30 days, begin maintaining operation and maintenance records for the Site;

f. Within 45 days, begin inspecting, maintaining and repairing the PBMPs at the Site; and

g. Within 60 days, submit written certification demonstrating compliance with Ordering Provisions a., b., c., e, and f.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

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

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 44802  
OB-GYN and Anaesthesia Associates, P.A.  
RN104737234  
Docket No. 2012-1686-EAQ-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jorge Ibarra, P.E., Enforcement Division,  
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Rama K. Rao, Secretary, OB-GYN and Anaesthesia Associates, P.A., 234  
San Pedro Avenue, Suite A, San Antonio, Texas 78205

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>TCEQ DATES</b>	<b>Assigned</b>	20-Aug-2012	<b>Screening</b>	20-Aug-2012	<b>EPA Due</b>	
	<b>PCW</b>	22-Aug-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	OB-GYN and Anaesthesia Associates, P.A.		
<b>Reg. Ent. Ref. No.</b>	RN104737234		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44802	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-1686-EAQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Edwards Aquifer	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$2,000
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
<b>Notes</b>	No adjustment for compliance history.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
<small>Total EB Amounts</small>	\$56	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$200		
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$2,000
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
<b>Notes</b>			
		<b>Final Penalty Amount</b>	\$2,000
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$2,000
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$400
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
<b>Notes</b>	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			\$1,600

**Screening Date** 20-Aug-2012

**Docket No.** 2012-1686-EAQ-E

**PCW**

**Respondent** OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 2 (September 2002)

**Case ID No.** 44802

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN104737234

**Media [Statute]** Edwards Aquifer

**Enf. Coordinator** Jorge Ibarra, P.E.

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	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	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)** 0%

>> **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**

No adjustment for compliance history.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

Screening Date 20-Aug-2012

Docket No. 2012-1686-EAQ-E

PCW

Respondent OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 2 (September 2002)

Case ID No. 44802

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104737234

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and Water Pollution Abatement Plan ("WPAP") No. 13-05081706, Standard Conditions No. 2

Violation Description Failed to submit proof of deed recordation to the TCEQ San Antonio Regional Office within 60 days of WPAP No. 13-05081706 approval.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 2156

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

## Economic Benefit Worksheet

**Respondent** OB-GYN and Anaesthesia Associates, P.A.

**Case ID No.** 44802

**Reg. Ent. Reference No.** RN104737234

**Media** Edwards Aquifer

**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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	25-Sep-2006	1-Mar-2013	6.44	\$32	n/a	\$32

**Notes for DELAYED costs**

Estimated cost to submit proof of deed recordation to the TCEQ San Antonio Regional Office. Date required is the date the required deed recordation was due and the final date is the expected compliance date.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$100

**TOTAL**

\$32

Screening Date 20-Aug-2012

Docket No. 2012-1686-EAQ-E

PCW

Respondent OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 2 (September 2002)

Case ID No. 44802

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104737234

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 213.5(f)(1) and WPAP No. 13-05081706, Standard Conditions No. 5

Violation Description

Failed to submit the required notification to commence construction to the TCEQ San Antonio Regional Office no later than 48 hours prior to commencement of a regulated activity.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
	x			10%

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1511 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

## Economic Benefit Worksheet

**Respondent** OB-GYN and Anaesthesia Associates, P.A.  
**Case ID No.** 44802  
**Reg. Ent. Reference No.** RN104737234  
**Media** Edwards Aquifer  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Jul-2008	1-Mar-2013	4.67	\$23	n/a	\$23

#### Notes for DELAYED costs

Estimated cost to submit the required notification to commence construction to the TCEQ San Antonio Regional Office after approval of WPAP. Date required is the date the required notification to commence construction was due and the final date is the expected compliance date.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$23



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	20-Aug-2012	<b>Screening</b>	20-Aug-2012	<b>EPA Due</b>	
	<b>PCW</b>	22-Aug-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	OB-GYN and Anaesthesia Associates, P.A.		
<b>Reg. Ent. Ref. No.</b>	RN104737234		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44802	<b>No. of Violations</b>	4
<b>Docket No.</b>	2012-1686-EAQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Edwards Aquifer	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

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

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

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

**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** **\$0**

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

Total EB Amounts \$444  
Approx. Cost of Compliance \$11,500  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$7,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$7,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,500**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,500**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$6,000**

**Screening Date** 20-Aug-2012

**Docket No.** 2012-1686-EAQ-E

**PCW**

**Respondent** OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 3 (September 2011)

**Case ID No.** 44802

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN104737234

**Media [Statute]** Edwards Aquifer

**Enf. Coordinator** Jorge Ibarra, P.E.

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	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	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)** 0%

>> **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**

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 0%

Screening Date 20-Aug-2012

Docket No. 2012-1686-EAQ-E

PCW

Respondent OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 3 (September 2011)

Case ID No. 44802

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104737234

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and Water Pollution Abatement Plan ("WPAP") No. 13-05081706, Standard Conditions No. 12

Violation Description Failed to maintain operation and maintenance records for the Site.

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

66 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

## Economic Benefit Worksheet

**Respondent** OB-GYN and Anaesthesia Associates, P.A.

**Case ID No.** 44802

**Reg. Ent. Reference No.** RN104737234

**Media** Edwards Aquifer

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	15-Jun-2012	1-Apr-2013	0.79	\$20	n/a	\$20
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 begin maintaining the required operation and maintenance records. Date required is the investigation date and the final date is the expected compliance date.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$20

Screening Date 20-Aug-2012

Docket No. 2012-1686-EAQ-E

PCW

Respondent OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 3 (September 2011)

Case ID No. 44802

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104737234

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 213.4(j) and WPAP No. 13-05081706, Standard Conditions No. 4

Violation Description

Failed to obtain approval of a modification to an approved WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone. Specifically, the Respondent constructed the Aqualogic filtration housings (without filters) and drain within the sedimentation basin, instead of in the filtration basin, which circumvented the 30-hour retention time in the sedimentation basin allowing for a direct discharge of untreated stormwater to the receiving stream; and the control panel, rain gauge, and bladder valve were absent during the investigation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	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 3

66 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

Three monthly events are recommended based on the investigation date of June 15, 2012 to the screening date of August 20, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$243

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

# Economic Benefit Worksheet

**Respondent** OB-GYN and Anaesthesia Associates, P.A.

**Case ID No.** 44802

**Reg. Ent. Reference No.** RN104737234

**Media** Edwards Aquifer

**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)	\$6,500	15-Jun-2012	15-Mar-2013	0.75	\$243	n/a	\$243

**Notes for DELAYED costs**

Estimated cost to prepare and submit an application for modification of a WPAP. Date required is the investigation date and the final date is the expected compliance date.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$6,500

**TOTAL**

\$243

Screening Date 20-Aug-2012

Docket No. 2012-1686-EAQ-E

PCW

Respondent OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 3 (September 2011)

Case ID No. 44802

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104737234

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 213.5(b)(5)(A) and WPAP No. 13-05081706, Standard Conditions No. 15

Violation Description

Failed to maintain the permanent best management practices ("PBMPs") at the Site. Specifically, excessive erosion was evident under the 4-inch diameter discharge conduit from the sedimentation basin; the outfall was not protected by a uniformly dense layer of rock; and there were no filters within the filter housings of the AquaLogic filtration system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

66 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended based on the investigation date of June 15, 2012 to the screening date of August 20, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$125

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

## Economic Benefit Worksheet

**Respondent** OB-GYN and Anaesthesia Associates, P.A.

**Case ID No.** 44802

**Reg. Ent. Reference No.** RN104737234

**Media** Edwards Aquifer

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	15-Jun-2012	15-Apr-2013	0.83	\$125	n/a	\$125

Notes for DELAYED costs

Estimated cost to properly inspect, maintain and repair the PBMPs at the Facility. Date required is the investigation date and the final date is the expected compliance date.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

**TOTAL**

\$125

Screening Date 20-Aug-2012

Docket No. 2012-1686-EAQ-E

PCW

Respondent OB-GYN and Anaesthesia Associates, P.A.

Policy Revision 3 (September 2011)

Case ID No. 44802

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN104737234

Media [Statute] Edwards Aquifer

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s)

Tex. Water Code 26.121

Violation Description

Failed to prevent the discharge of stormwater into or adjacent to water in the state. Specifically, stormwater from portions of the western and southeastern parking lots are being discharged off-site without treatment and not in accordance with the approved design and stormwater from a portion of the western parking lot also discharges untreated to a sensitive feature.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

66 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended based on the investigation date of June 15, 2012 to the screening date of August 20, 2012.

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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$56

Violation Final Penalty Total \$1,250

This violation Final Assessed Penalty (adjusted for limits) \$1,250

## Economic Benefit Worksheet

**Respondent** OB-GYN and Anaesthesia Associates, P.A.

**Case ID No.** 44802

**Reg. Ent. Reference No.** RN104737234

**Media** Edwards Aquifer

**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	15-Jun-2012	15-Mar-2013	0.75	\$56	n/a	\$56

**Notes for DELAYED costs**

Estimated cost to cease discharging untreated stormwater to a sensitive feature and begin discharging all stormwater in accordance with the approved design. Date required is the investigation date and the final date is the expected compliance date.

### 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**

\$1,500

**TOTAL**

\$56

# Compliance History Report

Customer/Respondent/Owner-Operator: CN604120428 OB-GYN AND ANAESTHESIA ASSOCIATES, P.A. Classification: Rating:  
Regulated Entity: RN104737234 LOTUS BUILDING ON STONE OAK PARKWAY Classification: Site Rating:  
ID Number(s): EDWARDS AQUIFER REGISTRATION 13-05081706  
EDWARDS AQUIFER REGISTRATION 13-05081706A  
EDWARDS AQUIFER REGISTRATION 13-05081706B  
Location: 19323 Stone Oak Parkway in San Antonio, Bexar County, Texas  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: August 23, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 23, 2007 to August 23, 2012

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

## 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.)  
N/A
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
OB-GYN AND ANAESTHESIA  
ASSOCIATES, P.A.  
RN104737234**

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§

**BEFORE THE  
  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-1686-EAQ-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding OB-GYN and Anaesthesia Associates, P.A. ("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 together stipulate that:

1. The Respondent owns and operates a medical office building, at 19323 Stone Oak Parkway in San Antonio, Bexar County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 22, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Five Hundred Dollars (\$9,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Sixty Dollars (\$760) of the

administrative penalty and One Thousand Nine Hundred Dollars (\$1,900) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Eight Hundred Forty Dollars (\$6,840) of the administrative penalty shall be payable in nine monthly payments of Seven Hundred Sixty Dollars (\$760) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to submit proof of deed recordation to the TCEQ San Antonio Regional Office within 60 days of Water Pollution Abatement Plan ("WPAP") No. 13-05081706 approval, in violation of 30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 13-05081706, Standard Conditions No. 2, as documented during an investigation conducted on June 15, 2012.

2. Failed to submit the required notification to commence construction to the TCEQ San Antonio Regional Office no later than 48 hours prior to commencement of a regulated activity, in violation of 30 TEX. ADMIN. CODE § 213.5(f)(1) and WPAP No. 13-05081706, Standard Conditions No. 5, as documented during an investigation conducted on June 15, 2012.
3. Failed to maintain operation and maintenance records for the Site, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and WPAP 13-05081706, Standard Conditions No. 12, as documented during an investigation conducted on June 15, 2012.
4. Failed to obtain approval of a modification to an approved WPAP prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(j) and WPAP No. 13-05081706, Standard Conditions No. 4, as documented during an investigation conducted on June 15, 2012. Specifically, the Respondent constructed the AquaLogic filtration housings (without filters) and drain within the sedimentation basin, instead of in the filtration basin, which circumvented the 30-hour retention time in the sedimentation basin allowing for a direct discharge of untreated stormwater to the receiving stream; and the control panel, rain gauge, and bladder valve were absent during the investigation.
5. Failed to maintain the permanent best management practices ("PBMPs") at the Site, in violation of 30 TEX. ADMIN. CODE § 213.5(b)(5)(A) and WPAP No. 13-05081706, Standard Conditions No. 15, as documented during an investigation conducted on June 15, 2012. Specifically, excessive erosion was evident under the 4-inch diameter discharge conduit from the sedimentation basin; the outfall was not protected by a uniformly dense layer of rock; and there were no filters within the filter housings of the AquaLogic filtration system.
6. Failed to prevent the discharge of stormwater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121, as documented during an investigation conducted on June 15, 2012. Specifically, stormwater from portions of the western and southeastern parking lots are being discharged off-site without treatment and not in accordance with the approved design and stormwater from a portion of the western parking lot also discharges untreated to a sensitive feature.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: OB-GYN and Anaesthesia Associates, P.A., Docket No. 2012-1686-EAQ-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order, cease discharging untreated stormwater into the sensitive feature and begin discharging all stormwater in accordance with the approved design;
- b. Within 15 days after the effective date of this Agreed Order,
  - i. Submit proof of deed recordation to the TCEQ San Antonio Regional Office for the Site, in accordance with 30 TEX. ADMIN. CODE § 213.4;
  - ii. Submit the required notification to commence construction to the TCEQ San Antonio Regional Office, in accordance with 30 TEX. ADMIN. CODE § 213.5;
- c. Within 30 days after the effective date of this Agreed Order, submit an administratively complete WPAP modification application for WPAP No. 13-05081706 to the TCEQ to:

Water Section, Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

- d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the WPAP modification application within 30 days after the date of such requests or by any other deadline specified in writing;
- e. Within 30 days after the effective date of this Agreed Order, begin maintaining operation and maintenance records for the Site, in accordance WPAP 13-05081706, Standard Conditions No. 12;
- f. Within 45 days after the effective date of this Agreed Order, begin inspecting, maintaining and repairing the PBMPs at the Site, in accordance with 30 TEX. ADMIN. CODE § 213.5; and
- g. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a., 2.b., 2.c., 2.e, and 2.f. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

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 Site 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. 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Davin J  
For the Executive Director

2/19/13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Pama K Rao  
Signature

NOV. 21. 2012  
Date

PAMA K RAO  
Name (Printed or typed)  
Authorized Representative of  
OB-GYN and Anaesthesia Associates, P.A.

Secretary  
Title

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