

Executive Summary – Enforcement Matter – Case No. 47440
Cibolo Creek Municipal Authority
RN101610319
Docket No. 2013-1588-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:

Odo J. Riedl, located at 12423 Authority Lane, approximately 2.25 miles northeast of the center of Randolph Air Force Base on the south bank of Cibolo Creek, Bexar County

Type of Operation:

Wastewater treatment facility with an associated collection system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

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

Texas Register Publication Date: April 18, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,625

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: \$5,625

Name of SEP: National Audubon Society (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 47440
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RN101610319
Docket No. 2013-1588-MWD-E

Investigation Information

Complaint Date(s): October 2, 2013

Complaint Information: Alleged the facility off of River Road smelled and when it rained, wastewater would run into Cibolo Creek.

Date(s) of Investigation: June 11, 2013

Date(s) of NOE(s): August 8, 2013

Violation Information

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011296001, No. 2(g)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On June 11, 2013, the Respondent removed the dead fish and wastewater from the drainage ditch and disinfected the affected area.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

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

Respondent: Clinton Ellis, General Manager, Cibolo Creek Municipal Authority, P.O. Box 930, Schertz, Texas 78154

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-1588-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Cibolo Creek Municipal Authority
Penalty Amount:	Five Thousand Six Hundred Twenty-Five Dollars (\$5,625)
SEP Offset Amount:	Five Thousand Six Hundred Twenty-Five Dollars (\$5,625)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	National Audubon Society
Project Name:	Mitchell Lake Project
Location of SEP:	Bexar County

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

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **National Audubon Society** for the *Mitchell Lake Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to restore the 600-acre upland habitat at the Mitchell Lake Audubon Center and Sanctuary by removing non-native, exotic plant species and re-establishing native grasses, forbs, and woody vegetation. Native plants that will provide maximum benefit for the wildlife of Mitchell Lake will be reintroduced throughout the uplands. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

Cibolo Creek Municipal Authority
Agreed Order - Attachment A

b. Environmental Benefit

Restore native habitat that will benefit wildlife.

c. Minimum Expenditure

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

2. Performance Schedule

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

Audubon Texas
Attention: Rozann Adair, Finance Manager
2904 Swiss Avenue
Dallas, Texas 75204

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset

Cibolo Creek Municipal Authority
Agreed Order - Attachment A

Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	12-Aug-2013	Screening	15-Aug-2013	EPA Due	
	PCW	15-Aug-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	Cibolo Creek Municipal Authority
Reg. Ent. Ref. No.	RN101610319
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	47440	No. of Violations	1
Docket No.	2013-1588-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jacquelyn Green
		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** **\$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** **\$1,875**

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

Total EB Amounts: \$0
 Approx. Cost of Compliance: \$2,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,625**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$5,625**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,625**

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

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$5,625**

Screening Date 15-Aug-2013

Docket No. 2013-1588-MWD-E

PCW

Respondent Cibolo Creek Municipal Authority

Policy Revision 3 (September 2011)

Case ID No. 47440

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101610319

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

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)**

Satisfactory 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 15-Aug-2013

Docket No. 2013-1588-MWD-E

PCW

Respondent Cibolo Creek Municipal Authority

Policy Revision 3 (September 2011)

Case ID No. 47440

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101610319

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011296001

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on June 11, 2013. Specifically, an unauthorized discharge of wastewater occurred at the Olympia Hills Golf Course, due to pump failure in the lift station, which resulted in a fish kill of approximately 270 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One daily event is recommended from the investigation date (June 11, 2013) to the date of compliance (June 11, 2013).

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes

The Respondent returned to compliance on June 11, 2013.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent Cibolo Creek Municipal Authority
Case ID No. 47440
Reg. Ent. Reference No. RN101610319
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)				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)	\$2,100	11-Jun-2013	11-Jun-2013	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to remove the wastewater, remove and properly dispose of the dead fish, and disinfect the affected area. Date required is the date of the investigation and 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

\$2,100

TOTAL

\$0

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600680805, RN101610319, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600680805, Cibolo Creek Municipal Authority
Classification: SATISFACTORY **Rating:** 5.30

Regulated Entity: RN101610319, ODO J RIEDL
Classification: SATISFACTORY **Rating:** 0.92

Complexity Points: 7
Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 12423 Authority Lane, approximately 2.25 miles northeast of the center of Randolph Air Force Base on the south bank of Cibolo Creek in Bexar County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

WASTEWATER PERMIT WQ0011269001

WASTEWATER EPA ID TX0077232

WASTEWATER AUTHORIZATION R11269001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: August 15, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 15, 2008 to August 15, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jacquelyn Green

Phone: (512) 239-2587

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	September 02, 2008	(714506)	Item 4	December 19, 2008	(753684)
Item 2	October 16, 2008	(730466)	Item 5	February 24, 2009	(753682)
Item 3	November 20, 2008	(730467)	Item 6	March 13, 2009	(753683)

Item 7	April 21, 2009	(771104)	Item 31	June 20, 2011	(946437)
Item 8	June 22, 2009	(813191)	Item 32	July 21, 2011	(953715)
Item 9	July 20, 2009	(813192)	Item 33	August 22, 2011	(960328)
Item 10	August 28, 2009	(813194)	Item 34	September 20, 2011	(966384)
Item 11	October 20, 2009	(813195)	Item 35	October 21, 2011	(972396)
Item 12	December 01, 2009	(813196)	Item 36	November 18, 2011	(978546)
Item 13	December 18, 2009	(813197)	Item 37	March 19, 2012	(1004514)
Item 14	January 07, 2010	(785783)	Item 38	April 20, 2012	(1011097)
Item 15	January 21, 2010	(813198)	Item 39	May 17, 2012	(1017453)
Item 16	February 22, 2010	(813189)	Item 40	June 13, 2012	(1025252)
Item 17	April 20, 2010	(833858)	Item 41	July 23, 2012	(1032593)
Item 18	June 21, 2010	(847185)	Item 42	August 20, 2012	(1039018)
Item 19	July 20, 2010	(861642)	Item 43	September 28, 2012	(1047943)
Item 20	August 30, 2010	(867994)	Item 44	October 22, 2012	(1066296)
Item 21	September 21, 2010	(874943)	Item 45	November 26, 2012	(1066297)
Item 22	November 10, 2010	(928083)	Item 46	December 27, 2012	(1066298)
Item 23	November 22, 2010	(928084)	Item 47	February 21, 2013	(1081231)
Item 24	December 17, 2010	(928085)	Item 48	February 28, 2013	(1027190)
Item 25	January 21, 2011	(903232)	Item 49	March 22, 2013	(1090402)
Item 26	February 22, 2011	(910151)	Item 50	April 22, 2013	(1090403)
Item 27	March 21, 2011	(917354)	Item 51	May 22, 2013	(1107722)
Item 28	April 14, 2011	(905626)	Item 52	June 24, 2013	(1111357)
Item 29	April 21, 2011	(928082)			
Item 30	May 20, 2011	(939053)			

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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
CIBOLO CREEK MUNICIPAL
AUTHORITY
RN101610319**

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

**AGREED ORDER
DOCKET NO. 2013-1588-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 Cibolo Creek Municipal Authority ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility with an associated collection system located at 12423 Authority Lane, approximately 2.25 miles northeast of the center of Randolph Air Force Base on the south bank of Cibolo Creek in Bexar County, Texas (the "Site").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on June 11, 2013, TCEQ staff documented that an unauthorized discharge of wastewater occurred at the Olympia Hills Golf Course, because of pump failure in the lift station, which resulted in a fish kill of approximately 270 fish.
4. The Respondent received notice of the violations on August 19, 2013.
5. The Executive Director recognizes that on June 11, 2013, the Respondent removed the dead fish and wastewater from the drainage ditch and disinfected the affected area.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011296001.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) shall be conditionally offset by Cibolo Creek Municipal Authority'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 Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative

penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Cibolo Creek Municipal Authority, Docket No. 2013-1588-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Five Thousand Six Hundred Twenty-Five Dollars (\$5,625) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the

Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

10/8/14
Date

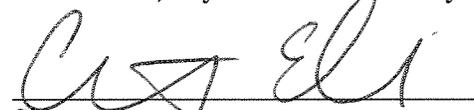
I, the undersigned, have read and understand the attached Agreed Order in the matter of Cibolo Creek Municipal Authority. I am authorized to agree to the attached Agreed Order on behalf of Cibolo Creek Municipal Authority, and do agree to the specified terms and conditions. I further acknowledge that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

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

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

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

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


Signature

1/2/2014
Date

Clint Ellis
Name (Printed or typed)
Authorized Representative of
Cibolo Creek Municipal Authority

General Manager
Title

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

Attachment A
Docket Number: 2013-1588-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Cibolo Creek Municipal Authority
Penalty Amount:	Five Thousand Six Hundred Twenty-Five Dollars (\$5,625)
SEP Offset Amount:	Five Thousand Six Hundred Twenty-Five Dollars (\$5,625)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	National Audubon Society
Project Name:	Mitchell Lake Project
Location of SEP:	Bexar County

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

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **National Audubon Society** for the *Mitchell Lake Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to restore the 600-acre upland habitat at the Mitchell Lake Audubon Center and Sanctuary by removing non-native, exotic plant species and re-establishing native grasses, forbs, and woody vegetation. Native plants that will provide maximum benefit for the wildlife of Mitchell Lake will be reintroduced throughout the uplands. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent’s signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

Cibolo Creek Municipal Authority
Agreed Order - Attachment A

b. Environmental Benefit

Restore native habitat that will benefit wildlife.

c. Minimum Expenditure

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

2. Performance Schedule

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

Audubon Texas
Attention: Rozann Adair, Finance Manager
2904 Swiss Avenue
Dallas, Texas 75204

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset

Cibolo Creek Municipal Authority
Agreed Order - Attachment A

Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

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