

Executive Summary – Enforcement Matter – Case No. 46271
Warren Independent School District
RN101512044
Docket No. 2013-0386-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Warren ISD, located south of Farm-to-Market Road 1943 and east of Blue Berry Hill Drive,
Tyler County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 20, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,775

Amount Deferred for Expedited Settlement: \$1,755

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: \$7,020

Name of SEP: Big Thicket Association

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. 46271
Warren Independent School District
RN101512044
Docket No. 2013-0386-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 14, 2013

Date(s) of NOE(s): January 29, 2013

Violation Information

1. Failed to comply with permitted effluent limits for flow and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011307001, Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring report ("DMR") for the quarterly monitoring period ending October 31, 2012, was not submitted by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(1) and (17), and 319.7(d), and TPDES Permit No. WQ0011307001, Monitoring and Reporting Requirements No. 1].
3. Failed to monitor for each parameter at the frequency specified in the permit. Specifically, Respondent did not analyze effluent for pH for the monitoring period ending November 30, 2011 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0011307001, Effluent Limitations and Monitoring Requirements No. 3 and Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to:
 - a. Within 15 days, submit the DMRs for the monitoring periods ending November 30, 2011 and October 31, 2012;
 - b. Within 30 days :
 - i. Submit written certification of compliance with Ordering Provision a, in accordance with Ordering Provision e below; and

Executive Summary – Enforcement Matter – Case No. 46271
Warren Independent School District
RN101512044
Docket No. 2013-0386-MWD-E

- ii. Update the Facility's operational guidance and conduct employee training to ensure timely submittal of signed and certified monthly DMRs, in accordance with TPDES permit No. WQ0011307001;
- c. Within 45 days, submit written certification of compliance with Ordering Provision b.ii, in accordance with Ordering Provision e. below;
- d. Within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011307001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and

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: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Brad McEachern, Superintendent, Warren Independent School District, P.O. Box 69, Warren, Texas 77664
Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0386-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Warren Independent School District
Penalty Amount:	Seven Thousand Twenty Dollars (\$7,020)
SEP Offset Amount:	Seven Thousand Twenty Dollars (\$7,020)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Recipient:	Big Thicket Association
Project Name:	<i>Wetland Species and Ecosystems Analysis</i>
Location of SEP:	Hardin, Jefferson, Orange, Jasper, Liberty, Polk, and Tyler Counties

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

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Big Thicket Association** for the *Wetland Species and Ecosystem Analysis* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Recipient and the TCEQ. Specifically, the SEP Offset Amount will be used to inventory an additional taxonomic group, such as lichens, bryophytes, mussels, mollusks, amphibians, fish, or birds (the “Project”). The Project will involve collecting specimens from the Preserve as well as wetland properties in the above mentioned counties which are in the process of being donated to the Preserve. Currently, a memorandum of understanding regarding the impending donation is in place that will allow inventory of these properties. These areas have never been inventoried and need data for resource management. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

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.

Warren Independent School District
Agreed Order - Attachment A

b. Environmental Benefit

This Project will benefit the environment by identifying the biodiversity, both native and exotic, in wetland wildlife corridors to assist in stewardship and sustainability. It will also assess the state of pollution indicator species to determine the impact of pollution on the Preserve. Additionally, inventories will identify areas where invasive species are present and aid in the analysis of harmful invasive species spreads and their impacts so that areas for removal can be identified.

c. Minimum Expenditure

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

2. Performance Schedule

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

Big Thicket Association
Attention: Mary C. Johnston, President
P.O. Box 198
Saratoga, Texas 77585

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described

Warren Independent School District
Agreed Order - Attachment A

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	4-Feb-2013	Screening	18-Feb-2013	EPA Due	
	PCW	19-Feb-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Warren Independent School District		
Reg. Ent. Ref. No.	RN101512044		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46271	No. of Violations	3
Docket No.	2013-0386-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		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	\$6,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	35.0% Enhancement	Subtotals 2, 3, & 7	\$2,275
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Notes: Enhancement for three months of self-reported effluent violations and one order with denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$924
Approx. Cost of Compliance	\$10,300

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,775
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$8,775
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,775
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,755
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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	\$7,020
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Screening Date 18-Feb-2013

Docket No. 2013-0386-MWD-E

PCW

Respondent Warren Independent School District

Policy Revision 3 (September 2011)

Case ID No. 46271

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101512044

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 35%

>> 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

Enhancement for three months of self-reported effluent violations and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 18-Feb-2013

Docket No. 2013-0386-MWD-E

PCW

Respondent Warren Independent School District

Policy Revision 3 (September 2011)

Case ID No. 46271

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101512044

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011307001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on January 14, 2013, and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	5.0%
	Potential				

>> 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 as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4 Number of violation days 123

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$896

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent Warren Independent School District
Case ID No. 46271
Reg. Ent. Reference No. RN101512044
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Jan-2012	15-Nov-2013	1.79	\$896	n/a	\$896

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the anticipated 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

\$10,000

TOTAL

\$896

Screening Date 18-Feb-2013

Docket No. 2013-0386-MWD-E

PCW

Respondent Warren Independent School District

Policy Revision 3 (September 2011)

Case ID No. 46271

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101512044

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17), and 319.7(d), and TPDES Permit No. WQ0011307001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on January 14, 2013. Specifically, the discharge monitoring report ("DMR") for the quarterly monitoring period ending October 31, 2012, was not submitted by the 20th day of the following month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Harm

OR

Release	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

90 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly 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 \$26

Violation Final Penalty Total \$1,688

This violation Final Assessed Penalty (adjusted for limits) \$1,688

Economic Benefit Worksheet

Respondent Warren Independent School District
Case ID No. 46271
Reg. Ent. Reference No. RN101512044
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$25	20-Dec-2011	15-Nov-2013	1.91	\$2	n/a	\$2
Training/Sampling	\$250	20-Dec-2011	15-Nov-2013	1.91	\$24	n/a	\$24
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 submit the quarterly report for the monitoring period ending November 30, 2011 and October 31, 2012, to TCEQ and to update operational procedures and conduct employee training to ensure that monitoring results are submitted at the intervals specified in the permit. Date required is the date the quarterly report was due. Final date is the anticipated 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

\$275

TOTAL

\$26

Screening Date 18-Feb-2013

Docket No. 2013-0386-MWD-E

PCW

Respondent Warren Independent School District

Policy Revision 3 (September 2011)

Case ID No. 46271

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101512044

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0011307001, Effluent Limitations and Monitoring Requirements No. 3 and Monitoring and Reporting Requirements No. 1

Violation Description

Failed to monitor for each parameter at the frequency specified in the permit, as documented during a record review conducted on January 14, 2013. Specifically, the Respondent did not analyze effluent for pH for the monitoring period ending November 30, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

426 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$338

This violation Final Assessed Penalty (adjusted for limits) \$338

Economic Benefit Worksheet

Respondent Warren Independent School District
Case ID No. 46271
Reg. Ent. Reference No. RN101512044
Media Water Quality
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for Vioation No. 2.

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	\$25	1-Nov-2011	30-Nov-2011	0.08	\$0	\$2	\$2
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

Estimated cost avoided for failing to monitor the effluent for pH for the month of November 2011. Date required is the beginning of the monitoring period and final date is the end of the monitoring period.

Approx. Cost of Compliance

\$25

TOTAL

\$2

Respondent: Warren Independent School District
ID Number(s): TPDES Permit No. WQ0011307001
Docket Number: 2013-0386-MWD-E

Corresponds to Violation Number: 1

<i>EFFLUENT PARAMETER</i>		
Permit Limit		
	Daily Average Flow 0.027 Million Gallons per Day	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter
<i>Month/Year</i>		
January 2012	0.1	c
June 2012	0.1	c
September 2012	c	29.3
October 2012	c	28.9

c = compliant

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 CN600788764, RN101512044, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600788764, Warren Independent School District
Classification: SATISFACTORY **Rating:** 3.42

Regulated Entity: RN101512044, WARREN ISD
Classification: SATISFACTORY **Rating:** 6.44

Complexity Points: 4
Repeat Violator: NO

CH Group: 14 - Other

Location: LOCATED SOUTH OF FARM-TO-MARKET ROAD 1943 AND EAST OF BLUE BERRY HILL DRIVE IN TYLER COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

WASTEWATER PERMIT WQ0011307001 **WASTEWATER EPA ID** TX0076015
WASTEWATER LICENSING LICENSE WQ0011307001

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

Date Compliance History Report Prepared: March 20, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 20, 2008 to March 20, 2013

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

Name: Heather Brister

Phone: (254) 761-3034

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:

- 1 Effective Date: **11/13/2009** ADMINORDER 2009-0859-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 25, 2008	(674834)
Item 2	May 22, 2008	(693181)
Item 3	June 18, 2008	(693182)
Item 4	October 06, 2008	(714412)
Item 5	October 27, 2008	(714413)
Item 6	April 20, 2009	(753607)
Item 7	April 21, 2009	(753608)
Item 8	July 23, 2009	(812994)
Item 9	August 28, 2009	(812997)
Item 10	September 18, 2009	(812996)
Item 11	September 21, 2009	(812998)
Item 12	December 07, 2009	(812999)
Item 13	February 19, 2010	(791537)
Item 14	April 12, 2010	(833784)
Item 15	May 06, 2010	(833785)
Item 16	June 01, 2010	(833786)
Item 17	July 09, 2010	(847164)
Item 18	August 27, 2010	(861624)
Item 19	October 12, 2010	(874918)
Item 20	November 17, 2010	(882527)
Item 21	November 22, 2010	(882526)
Item 22	January 13, 2011	(903211)
Item 23	January 24, 2011	(903212)
Item 24	March 21, 2011	(917336)
Item 25	April 25, 2011	(928029)
Item 26	May 23, 2011	(939028)
Item 27	June 29, 2011	(953690)
Item 28	July 28, 2011	(953691)
Item 29	September 02, 2011	(966358)
Item 30	September 28, 2011	(966359)
Item 31	October 24, 2011	(985344)
Item 32	December 01, 2011	(985345)
Item 33	January 09, 2012	(1032569)
Item 34	January 20, 2012	(991624)
Item 35	April 18, 2012	(1011075)
Item 36	April 23, 2012	(1011074)
Item 37	May 21, 2012	(1017430)
Item 38	June 25, 2012	(1025227)
Item 39	August 22, 2012	(1038994)
Item 40	September 24, 2012	(1047922)

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.

- | | | | | |
|---|-------------------------|------------------------------------------------------------|--------------------------|--|
| 1 | Date: 06/30/2012 | (1032568) | CN600788764 | |
| | Self Report? YES | | Classification: Moderate | |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) | | |
| | | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | | |
| 2 | Date: 09/30/2012 | (1032568) | CN600788764 | |
| | Self Report? YES | | Classification: Moderate | |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) | | |
| | | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | |
| | | | | |
| 3 | Date: 10/31/2012 | (1032568) | CN600788764 | |
| | Self Report? YES | | Classification: Moderate | |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) | | |
| | | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WARREN INDEPENDENT
SCHOOL DISTRICT
RN101512044**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-0386-MWD-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 Warren Independent School District ("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 wastewater treatment plant located south of Farm-to-Market Road 1943 and east of Blue Berry Hill Drive in Tyler County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. 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 February 3, 2013.
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 Eight Thousand Seven Hundred Seventy-Five Dollars (\$8,775) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). Seven Thousand Twenty Dollars (\$7,020) of the administrative penalty shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP") and One Thousand Seven Hundred Fifty-Five Dollars (\$1,755) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011307001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on January 14, 2013, and shown in the table below:

EFFLUENT PARAMETER		
Permit Limit		
	Daily Average Flow 0.027 Million Gallons per Day	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter
Month/Year		
January 2012	0.1	c
June 2012	0.1	c
September 2012	c	29.3
October 2012	c	28.9

c = compliant

2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17), and 319.7(d), and TPDES Permit No. WQ0011307001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on January 14, 2013. Specifically, the discharge monitoring report ("DMR") for the quarterly monitoring period ending October 31, 2012, was not submitted by the 20th day of the following month.

3. Failed to monitor for each parameter at the frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(b) and TPDES Permit No. WQ0011307001, Effluent Limitations and Monitoring Requirements No. 3 and Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on January 14, 2013. Specifically, the Respondent did not analyze effluent for pH for the monitoring period ending November 30, 2011.

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: Warren Independent School District, Docket No. 2013-0386-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 I, Paragraph 6 above, Seven Thousand Twenty Dollars (\$7,020) 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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order, submit the DMRs for the monitoring periods ending November 30, 2011 and October 31, 2012, to the address below:

Compliance Monitoring Team
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Within 30 days after the effective date of this Agree Order:
 - i. Submit written certification of compliance with Ordering Provision No. 3.a, in accordance with Ordering Provision No. 3.e below; and
 - ii. Update the Facility's operational guidance and conduct employee training to ensure timely submittal of signed and certified monthly DMRs, in accordance with TPDES permit No. WQ0011307001;
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.b.ii, in accordance with Ordering Provision No. 3.e. below;
 - d. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011307001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and

- e. The certification of compliance required by Ordering Provision Nos. 3.b and 3.c shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

"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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

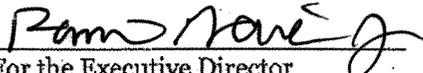
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not

- effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
 8. 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.
 9. 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


For the Executive Director

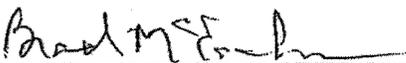
2/26/14
Date

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.


Signature

7/23/2013
Date

Brad McEachern
Name (Printed or typed)
Authorized Representative of
Warren Independent School District

Superintendent, Warren ISD
Title

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

Attachment A
Docket Number: 2013-0386-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Warren Independent School District
Penalty Amount:	Seven Thousand Twenty Dollars (\$7,020)
SEP Offset Amount:	Seven Thousand Twenty Dollars (\$7,020)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Recipient:	Big Thicket Association
Project Name:	<i>Wetland Species and Ecosystems Analysis</i>
Location of SEP:	Hardin, Jefferson, Orange, Jasper, Liberty, Polk, and Tyler Counties

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

1. Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Big Thicket Association** for the *Wetland Species and Ecosystem Analysis* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Recipient and the TCEQ. Specifically, the SEP Offset Amount will be used to inventory an additional taxonomic group, such as lichens, bryophytes, mussels, mollusks, amphibians, fish, or birds (the “Project”). The Project will involve collecting specimens from the Preserve as well as wetland properties in the above mentioned counties which are in the process of being donated to the Preserve. Currently, a memorandum of understanding regarding the impending donation is in place that will allow inventory of these properties. These areas have never been inventoried and need data for resource management. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

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

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.

Warren Independent School District
Agreed Order - Attachment A

b. Environmental Benefit

This Project will benefit the environment by identifying the biodiversity, both native and exotic, in wetland wildlife corridors to assist in stewardship and sustainability. It will also assess the state of pollution indicator species to determine the impact of pollution on the Preserve. Additionally, inventories will identify areas where invasive species are present and aid in the analysis of harmful invasive species spreads and their impacts so that areas for removal can be identified.

c. Minimum Expenditure

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

2. Performance Schedule

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

Big Thicket Association
Attention: Mary C. Johnston, President
P.O. Box 198
Saratoga, Texas 77585

3. Records and Reporting

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

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

4. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described

Warren Independent School District
Agreed Order - Attachment A

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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