

**Executive Summary – Enforcement Matter – Case No. 47736  
City of Plano  
RN103099156  
Docket No. 2013-1868-WQ-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:**

WQ

**Small Business:**

No

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

City of Plano PWS, 2720 Parkhaven Drive and the 100 block of East 15th Street, Plano, Collin County

**Type of Operation:**

Public water supply with associated water mains

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 14, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,312

**Amount Deferred for Expedited Settlement:** \$0

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

**Total Paid to General Revenue:** \$15,312

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**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. 47736  
City of Plano  
RN103099156  
Docket No. 2013-1868-WQ-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** August 6, 2013 and August 16, 2013

**Date(s) of NOE(s):** September 24, 2013

***Violation Information***

1. Failed to prevent unauthorized discharges of potable water [TEX. WATER CODE § 26.121(a)(1)].
2. Failed to timely submit a noncompliance notification to the TCEQ Dallas/Fort Worth Regional Office within 24 hours of the unauthorized discharge [TEX. WATER CODE § 26.039(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. By August 5, 2013, ceased discharging and repaired the 8-inch water main;
- b. On August 6, 2013, submitted notification for the August 4, 2013 unauthorized discharge, flushed approximately 885,100 gallons of de-chlorinated water into Pittman Creek, revised standard operating procedures, and properly disposed of the dead fish; and
- c. By August 16, 2013, ceased discharging, closed main line valves, placed de-chlorinator tablets in affected area, and properly disposed of the dead fish.

**Technical Requirements:**

N/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

**Executive Summary – Enforcement Matter – Case No. 47736  
City of Plano  
RN103099156  
Docket No. 2013-1868-WQ-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division,  
Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Gerald Cosgrove, Director of Public Works, City of Plano, P.O. Box  
860358, Plano, Texas 75086

Frank F. Turner, Deputy City Manager, City of Plano, P.O. Box 860358, Plano, Texas  
75086

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	23-Sep-2013	<b>Screening</b>	24-Sep-2013	<b>EPA Due</b>	
	<b>PCW</b>	3-Oct-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Plano				
<b>Reg. Ent. Ref. No.</b>	RN103099156				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	47736	<b>No. of Violations</b>	3
<b>Docket No.</b>	2013-1868-WQ-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<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** **\$15,250**

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

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

**Compliance History** **25.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,812**

Notes: Enhancement for one order without denial of liability.

**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** **\$3,750**

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

Total EB Amounts: \$21  
 Approx. Cost of Compliance: \$6,020  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$15,312**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$15,312**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$15,312**

**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** **\$15,312**

Screening Date 24-Sep-2013

Docket No. 2013-1868-WQ-E

PCW

Respondent City of Plano

Policy Revision 3 (September 2011)

Case ID No. 47736

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103099156

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### 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	1	25%
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)** 25%

#### >> 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 one order without denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 25%

Screening Date 24-Sep-2013

Docket No. 2013-1868-WQ-E

PCW

Respondent City of Plano

Policy Revision 3 (September 2011)

Case ID No. 47736

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103099156

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent an unauthorized discharge of potable water. Specifically, on August 4, 2013, a water main break occurred at 2720 Parkhaven Drive, discharging approximately 270,000 gallons of potable water into Pittman Creek, killing approximately 1,050 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 Number of violation days 1

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.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes The Respondent ceased discharging and repaired the 8-inch water main on August 5, 2013 and returned to compliance on August 6, 2013.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

# Economic Benefit Worksheet

**Respondent** City of Plano  
**Case ID No.** 47736  
**Reg. Ent. Reference No.** RN103099156  
**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

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)	\$4,000	4-Aug-2013	6-Aug-2013	0.01	\$1	n/a	\$1

**Notes for DELAYED costs**

Estimated cost to repair the 8-inch water main, flush approximately 885,100 gallons of de-chlorinated water into Pittman Creek, revise standard operating procedures and collect and properly dispose of the dead fish. Date required is the date the discharge started. Final date is the date of compliance.

### 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

\$4,000

**TOTAL**

\$1

Screening Date 24-Sep-2013

Docket No. 2013-1868-WQ-E

PCW

Respondent City of Plano

Policy Revision 3 (September 2011)

Case ID No. 47736

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103099156

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent an unauthorized discharge of potable water. Specifically, on August 15, 2013, a water main break occurred in the 100 block of East 15th Street, discharging approximately 90,000 gallons of potable water into Spring Creek killing approximately 1,011 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	Harm		
	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 the environment 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.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes

The Respondent returned to compliance on August 16, 2013.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

# Economic Benefit Worksheet

**Respondent** City of Plano  
**Case ID No.** 47736  
**Req. Ent. Reference No.** RN103099156  
**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	Overtime Costs	EB Amount
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No commas or \$

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime 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)	\$2,000	15-Aug-2013	16-Aug-2013	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to close main line valves, collect and properly dispose of the dead fish, and place 48 de-chlorinator tablets in affected area. Date required is the date the discharge started. Final date is the date of compliance.

### 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	Overtime 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

\$2,000

**TOTAL**

\$0

Screening Date 24-Sep-2013

Docket No. 2013-1868-WQ-E

PCW

Respondent City of Plano

Policy Revision 3 (September 2011)

Case ID No. 47736

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103099156

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.039(b)

Violation Description Failed to timely submit a noncompliance notification to the TCEQ Dallas/Fort Worth Regional Office within 24 hours of the unauthorized discharge. Specifically, the notification for the August 4, 2013, unauthorized discharge was not submitted until August 6, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$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 \$20

Violation Final Penalty Total \$313

This violation Final Assessed Penalty (adjusted for limits) \$313



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



# Compliance History Report

**PENDING** Compliance History Report for CN600352488, RN103099156, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600352488, City of Plano

**Classification:** SATISFACTORY **Rating:** 1.66

**Regulated Entity:** RN103099156, CITY OF PLANO

**Classification:** SATISFACTORY **Rating:** 12.50

**Complexity Points:** 1

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 2720 Parkhaven Drive and the 100 Block of East 15<sup>th</sup> Street in Collin County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**  
UTILITIES REGISTRATION 20070

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** October 03, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 03, 2008 to October 03, 2013

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

**Name:** Cheryl Thompson

**Phone:** (817) 588-5886

## 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: 11/06/2008 ADMINORDER 2007-1337-WQ-E (Findings Order-Agreed Order Without Denial)  
 Classification: Major  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 Description: failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, on May 20, 2007, approximately 216,000 gallons of wastewater discharged from a 24-inch sewer main located at 7700 Circleview Court due to a line blocked with carpet

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

- Item 1 January 30, 2009 (725456)

**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  
CITY OF PLANO  
RN103099156**

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

**AGREED ORDER  
DOCKET NO. 2013-1868-WQ-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 the City of Plano ("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 public water supply with associated water mains located at 2720 Parkhaven Drive and the 100 block of East 15th Street in Plano, Collin County, Texas (the "Facility").

2. The Respondent has discharged a pollutant into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During record reviews conducted on August 6, 2013, and August 16, 2013, TCEQ staff documented that the Respondent did not prevent unauthorized discharges of potable water. Specifically, on August 4, 2013, a water main break occurred at 2720 Parkhaven Drive, discharging approximately 270,000 gallons of potable water into Pittman Creek killing approximately 1,050 fish, and on August 15, 2013, a water main break occurred in the 100 block of East 15th Street, discharging approximately 90,000 gallons of potable water into Spring Creek, killing approximately 1,011 fish.
4. During a record review conducted on August 6, 2013, TCEQ staff documented that the Respondent did not timely submit a noncompliance notification to the TCEQ Dallas/Fort Worth Regional Office within 24 hours of the unauthorized discharge. Specifically, the notification for the August 4, 2013, unauthorized discharge was not submitted until August 6, 2013.
5. The Respondent received notice of the violations on September 26, 2013.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By August 5, 2013, ceased discharging and repaired the 8-inch water main;
  - b. On August 6, 2013, submitted notification for the August 4, 2013 unauthorized discharge, flushed approximately 885,100 gallons of de-chlorinated water into Pittman Creek, revised standard operating procedures, and properly disposed of the dead fish; and
  - c. By August 16, 2013, ceased discharging, closed main line valves, placed de-chlorinator tablets in affected area, and properly disposed of the dead fish.

## 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 unauthorized discharges of potable water, in violation of TEX. WATER CODE § 26.121(a)(1).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit a noncompliance notification to the TCEQ Dallas/Fort Worth Regional Office within 24 hours of the unauthorized discharge, in violation of TEX. WATER CODE § 26.039(b).

4. 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.
5. An administrative penalty in the amount of Fifteen Thousand Three Hundred Twelve Dollars (\$15,312) 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. The Respondent has paid the Fifteen Thousand Three Hundred Twelve Dollars (\$15,312) administrative penalty.

### 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 Fifteen Thousand Three Hundred Twelve Dollars (\$15,312) as set forth in Section II, Paragraph 5 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: City of Plano, Docket No. 2013-1868-WQ-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 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.
3. 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.
4. 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.
5. 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)

5. 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.
6. 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.
7. 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

Pamela Morley  
For the Executive Director

8/11/14  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Plano. I am authorized to agree to the attached Agreed Order on behalf of the City of Plano, 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, the City of Plano 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]  
Signature

December 16, 2013  
Date

Bruce D. Glasscock

[Signature]  
Name (Printed or typed)  
Authorized Representative of  
City of Plano

City Manager

Deputy City 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.