

**Executive Summary – Enforcement Matter – Case No. 51775**  
**City of Murphy**  
**RN105603526**  
**Docket No. 2016-0106-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

No

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

City of Murphy MS4, located within the City of Murphy limits that is located within the Dallas urbanized area, Collin County

**Type of Operation:**

Small municipal separate storm sewer system ("MS4")

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 6, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,250

**Amount Deferred for Expedited Settlement:** \$1,650

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

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

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

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$6,600

Name of SEP: Texas Water Development Board (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 51775**

**City of Murphy**

**RN105603526**

**Docket No. 2016-0106-WQ-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** October 29, 2015

**Date(s) of NOE(s):** January 8, 2016

***Violation Information***

1. Failed to maintain authorization to discharge stormwater under a Texas Pollutant Discharge Elimination System ("TPDES") General Permit for small MS4s. Specifically, TPDES General Permit No. TXR040357 expired on August 13, 2012, and a Notice of Intent and revised Stormwater Management Program ("SWMP") were not submitted by the application deadline date of June 11, 2014 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(a)(9)(i)(A)].
2. Failed to submit a concise annual report to the Executive Director within 90 days of the end of each reporting year. Specifically, the Respondent failed to submit annual reports for the 2013 and 2014 reporting years to the TCEQ by November 10, 2013 and March 31, 2015, respectively [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit Nos. TXR040357 and TXR040540, Part IV, Section B(2)].
3. Failed to meet a measurable goal identified in the SWMP for Minimum Control Measures No. 1, Public Education, Outreach, and Involvement. Specifically, the Respondent failed to issue a public service announcement through emails or the City website, as required by the measurable goal for Best Management Practice 1.5 of the SWMP for year 2014 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR040540, Part III, Section B(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On December 11, 2014, the Respondent obtained authorization to discharge stormwater under TPDES General Permit No. TXR040540.

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

**Executive Summary – Enforcement Matter – Case No. 51775**

**City of Murphy**

**RN105603526**

**Docket No. 2016-0106-WQ-E**

2. The Order will also require the Respondent to:

a. Within 30 days:

i. Update the Site's standard operating procedures and conduct employee training to ensure that reporting requirements are properly accomplished, including the timely submittal of concise annual reports, and to ensure that measurable goals identified in the SWMP are properly completed; and

ii. Submit the completed concise annual reports for the 2013 and 2014 reporting years to the Executive Director.

b. Within 45 days, submit written certification to demonstrate compliance with 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:** Austin Henck, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-6155; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

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

**Respondent:** The Honorable Eric Barna, Mayor, City of Murphy, 206 North Murphy Road, Murphy, Texas 75094-3512

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



**Attachment A**  
**Docket Number: 2016-0106-WQ-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Murphy</b>
<b>Penalty Amount:</b>	<b>Six Thousand Six Hundred Dollars (\$6,600)</b>
<b>SEP Offset Amount:</b>	<b>Six Thousand Six Hundred Dollars (\$6,600)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Water Development Board</b>
<b>Project Name:</b>	<b><i>Water-Level Recorder Data in Every Texas County</i></b>
<b>Location of SEP:</b>	<b>Statewide, with Preference for Collin County</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the 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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Water Development Board** for the *Water-Level Recorder Data in Every Texas County* 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 purchase, install, and maintain automatic water-level recorders in unused wells in the remaining one hundred sixty-six (166) counties. The Third-Party Administrator shall give preference to installing water-level recorders initially in counties in which there are 1) no existing automatic water-level recorder wells, 2) no groundwater conservation district, or 3) groundwater conservation districts that do not have the staff and/or the financial ability to install an automatic water-level recorder. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The groundwater stored within Texas' minor and major aquifers is an important natural resource that is relied upon to meet the water supply demands of Texans across the state. Many factors affect the availability of this resource including drought and increased demand. This Project will provide statewide comprehensive real-time groundwater level data to Texas counties, cities, groundwater conservation districts, water supply companies, and individual well owners. The availability of this comprehensive data will promote awareness of the effects of drought on Texas' aquifers and assist in groundwater management planning and use throughout the state.

c. Minimum Expenditure

The 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, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Water Development Board SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Water Development Board  
Attention: Janie Hopkins, Manager  
Groundwater Monitoring Section  
P.O. Box 13231  
Austin, Texas 78711-3231

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the 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 Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

City of Murphy  
Agreed Order - Attachment A

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 the 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 ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the 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, the 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 project, made by or on behalf of the 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. **Recognition**

The 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

<b>DATES</b>	Assigned	11-Jan-2016	Screening	11-Jan-2016	EPA Due	
	PCW	25-Jan-2016				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Murphy
Reg. Ent. Ref. No.	RN105603526
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	51775	No. of Violations	3
Docket No.	2016-0106-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Austin Henck
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

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

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$289
Estimated Cost of Compliance	\$2,400

\*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 11-Jan-2016  
**Respondent** City of Murphy  
**Case ID No.** 51775  
**Reg. Ent. Reference No.** RN105603526  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Austin Henck

**Docket No.** 2016-0106-WQ-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

### 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 judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

Reduction for High Performer classification.

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

>> **Final Compliance History Adjustment**

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

**Screening Date** 11-Jan-2016  
**Respondent** City of Murphy  
**Case ID No.** 51775  
**Reg. Ent. Reference No.** RN105603526  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Austin Henck  
**Violation Number** 1

**Docket No.** 2016-0106-WQ-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Rule Cite(s)**

30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(a)(9)(i)(A)

**Violation Description**

Failed to maintain authorization to discharge stormwater under a Texas Pollutant Discharge Elimination System ("TPDES") General Permit for small municipal separate storm sewer systems, as documented during an investigation conducted on October 29, 2015. Specifically, TPDES General Permit No. TXR040357 expired on August 13, 2012, and a Notice of Intent ("NOI") and revised Stormwater Management Program ("SWMP") were not submitted by the application deadline date of June 11, 2014.

**Base Penalty** \$25,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

>> **Programmatic Matrix**

Falsification	Harm		
	Major	Moderate	Minor
	X		

**Percent** 5.0%

Matrix Notes

100% of the rule requirements were not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 6

183 Number of violation days

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

**Violation Base Penalty** \$7,500

Six monthly events are recommended from the permit application deadline of June 11, 2014 to the permit authorization date of December 11, 2014.

**Good Faith Efforts to Comply**

25.0%

Reduction \$1,875

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

Notes: The Respondent obtained authorization on December 11, 2014.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount \$50

**Violation Final Penalty Total** \$4,875

**This violation Final Assessed Penalty (adjusted for limits)** \$4,875

# Economic Benefit Worksheet

**Respondent** City of Murphy  
**Case ID No.** 51775  
**Reg. Ent. Reference No.** RN105603526  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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	\$2,000	11-Jun-2014	11-Dec-2014	0.50	\$50	n/a	\$50
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an NOI and a revised SWMP, and to obtain authorization to discharge stormwater. The date required is the permit application deadline date and the final date is the permit authorization date.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000

**TOTAL** \$50

**Screening Date** 11-Jan-2016  
**Respondent** City of Murphy  
**Case ID No.** 51775  
**Reg. Ent. Reference No.** RN105603526  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Austin Henck  
**Violation Number** 2

**Docket No.** 2016-0106-WQ-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit Nos. TXR040357 and TXR040540, Part IV, Section B(2)

**Violation Description**

Failed to submit a concise annual report to the Executive Director within 90 days of the end of each reporting year, as documented during an investigation conducted on October 29, 2015. Specifically, the Respondent failed to submit annual reports for the 2013 and 2014 reporting years to the TCEQ by November 10, 2013 and March 31, 2015, respectively.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
	X		

**Percent** 5.0%

**Matrix Notes**

100% of the rule requirements were not met.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events: 2      792 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

**Violation Base Penalty** \$2,500

Two single events are recommended.

**Good Faith Efforts to Comply**

0.0%

**Reduction** \$0

	Before NOE/NOV	NOE/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** \$2,500

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$19

**Violation Final Penalty Total** \$2,250

**This violation Final Assessed Penalty (adjusted for limits)** \$2,250

# Economic Benefit Worksheet

**Respondent** City of Murphy  
**Case ID No.** 51775  
**Reg. Ent. Reference No.** RN105603526  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

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	\$100	29-Oct-2015	7-Oct-2016	0.94	\$5	n/a	\$5
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	10-Nov-2013	7-Oct-2016	2.91	\$15	n/a	\$15

Notes for DELAYED costs

The estimated cost to update standard operating procedures and conduct employee training to ensure reporting requirements are properly accomplished, including the timely submittal of concise annual reports, and to ensure that measurable goals identified in the SWMP are properly completed. The date required is the investigation date and the final date is the estimated date of compliance.

The other delayed cost includes the estimated amount to prepare and submit the annual reports (\$50 per report x 2 reports) to the Executive Director. The date required is the due date of the earliest annual report and the final date is the estimated 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 \$200

**TOTAL** \$19

Screening Date 11-Jan-2016

Docket No. 2016-0106-WQ-E

PCW

Respondent City of Murphy

Policy Revision 4 (April 2014)

Case ID No. 51775

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105603526

Media [Statute] Water Quality

Enf. Coordinator Austin Henck

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES General Permit No. TXR040540, Part III, Section B(1)

Violation Description Failed to meet a measurable goal identified in the SWMP for Minimum Control Measures No. 1, Public Education, Outreach, and Involvement. Specifically, the Respondent failed to issue a public service announcement through emails or the City website, as required by the measurable goal for Best Management Practice 1.5 of the SWMP for year 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 376

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with X).

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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 \$219

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

# Economic Benefit Worksheet

**Respondent** City of Murphy  
**Case ID No.** 51775  
**Reg. Ent. Reference No.** RN105603526  
**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

The estimated cost to update the Facility's standard operating procedures and conduct employee training are captured in the Economic Benefit Worksheet for Violation 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				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)	\$200	31-Dec-2014	11-Jan-2016	1.95	\$19	\$200	\$219

Notes for AVOIDED costs

Estimated avoided cost to issue a public service announcement through emails or the City website. The date required is the due date and the final date is the screening date.

Approx. Cost of Compliance

\$200

**TOTAL**

\$219

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 CN600697247, RN105603526, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN600697247, City of Murphy      **Classification:** HIGH      **Rating:** 0.00

**Regulated Entity:** RN105603526, City of Murphy MS4      **Classification:** HIGH      **Rating:** 0.00

**Complexity Points:** 5      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** AREA WITHIN THE CITY OF MURPHY LIMITS THAT IS LOCATED WITHIN THE DALLAS URBANIZED AREA IN COLLIN, COLLIN COUNTY, TEXAS

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

**ID Number(s):** STORMWATER PERMIT TXR040540

**Compliance History Period:** September 01, 2010 to August 31, 2015      **Rating Year:** 2015      **Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** January 19, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 19, 2011 to January 19, 2016

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

**Name:** Austin Henck      **Phone:** (512) 239-6155

## 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 <b>YES</b> for #2, who is the current owner/operator?  | N/A |
| 4) If <b>YES</b> for #2, who was/were the prior owner(s)/operator(s)?                              | N/A |
| 5) If <b>YES</b> , 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.):**

N/A

### **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 MURPHY  
RN105603526**

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

**AGREED ORDER  
DOCKET NO. 2016-0106-WQ-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 the City of Murphy ("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 small municipal separate storm sewer system ("MS4") located within the City of Murphy limits that is located within the Dallas urbanized area in Collin County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
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 January 13, 2016.
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 Two Hundred Fifty Dollars (\$8,250) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). One Thousand Six Hundred Fifty Dollars (\$1,650) 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. The amount of Six Thousand Six Hundred Dollars (\$6,600) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 recognizes that on December 11, 2014, the Respondent obtained authorization to discharge stormwater under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR040540.
10. 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.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to maintain authorization to discharge stormwater under a TPDES General Permit for small MS4s, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(a)(9)(i)(A), as documented during an investigation conducted on October 29, 2015. Specifically, TPDES General Permit No. TXR040357 expired on August 13, 2012, and a Notice of Intent and revised Stormwater Management Program ("SWMP") were not submitted by the application deadline date of June 11, 2014.
2. Failed to submit a concise annual report to the Executive Director within 90 days of the end of each reporting year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit Nos. TXR040357 and TXR040540, Part IV, Section B(2), as documented during an investigation conducted on October 29, 2015. Specifically, the Respondent

failed to submit annual reports for the 2013 and 2014 reporting years to the TCEQ by November 10, 2013 and March 31, 2015, respectively.

3. Failed to meet a measurable goal identified in the SWMP for Minimum Control Measures No. 1, Public Education, Outreach, and Involvement, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES General Permit No. TXR040540, Part III, Section B(1), as documented during an investigation conducted on October 29, 2015. Specifically, the Respondent failed to issue a public service announcement through emails or the City website, as required by the measurable goal for Best Management Practice 1.5 of the SWMP for year 2014.

### **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: City of Murphy, Docket No. 2016-0106-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 Respondent shall implement and complete an SEP as set forth in Section I, Paragraph 6. The amount of Six Thousand Six Hundred Dollars (\$6,600) of the assessed penalty is conditionally offset based on the Respondent's completion of the SEP pursuant to the terms of the SEP Agreement. The Respondent's obligation to pay the conditionally offset portion of the assessed penalty shall be discharged upon completion of all provisions of the SEP Agreement, as determined by the Executive Director. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.

3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Update the Site's standard operating procedures and conduct employee training to ensure that reporting requirements are properly accomplished, including the timely submittal of concise annual reports, and to ensure that measurable goals identified in the SWMP are properly completed, in accordance with TPDES General Permit No. TXR040540.
    - ii. Submit the completed concise annual reports for the 2013 and 2014 reporting years to the Executive Director, in accordance with the requirements of TPDES General Permit Nos. TXR040357 and TXR040540.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i and 3.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

Nancy Miller for Ramiro Garcia  
For the Executive Director

6.16.16  
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

4/15/2016  
Date

ERIC ZARBA  
Name (Printed or typed)  
Authorized Representative of  
City of Murphy

MAYOR  
Title

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

**Attachment A**  
**Docket Number: 2016-0106-WQ-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Murphy</b>
<b>Penalty Amount:</b>	<b>Six Thousand Six Hundred Dollars (\$6,600)</b>
<b>SEP Offset Amount:</b>	<b>Six Thousand Six Hundred Dollars (\$6,600)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texas Water Development Board</b>
<b>Project Name:</b>	<b><i>Water-Level Recorder Data in Every Texas County</i></b>
<b>Location of SEP:</b>	<b>Statewide, with Preference for Collin County</b>

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the 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

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Water Development Board** for the *Water-Level Recorder Data in Every Texas County* 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 purchase, install, and maintain automatic water-level recorders in unused wells in the remaining one hundred sixty-six (166) counties. The Third-Party Administrator shall give preference to installing water-level recorders initially in counties in which there are 1) no existing automatic water-level recorder wells, 2) no groundwater conservation district, or 3) groundwater conservation districts that do not have the staff and/or the financial ability to install an automatic water-level recorder. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The groundwater stored within Texas' minor and major aquifers is an important natural resource that is relied upon to meet the water supply demands of Texans across the state. Many factors affect the availability of this resource including drought and increased demand. This Project will provide statewide comprehensive real-time groundwater level data to Texas counties, cities, groundwater conservation districts, water supply companies, and individual well owners. The availability of this comprehensive data will promote awareness of the effects of drought on Texas' aquifers and assist in groundwater management planning and use throughout the state.

c. Minimum Expenditure

The 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, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Water Development Board SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Water Development Board  
Attention: Janie Hopkins, Manager  
Groundwater Monitoring Section  
P.O. Box 13231  
Austin, Texas 78711-3231

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the 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 Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

City of Murphy  
Agreed Order - Attachment A

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 the 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 ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the 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, the 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 project, made by or on behalf of the 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. Recognition

The 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.