

**Executive Summary – Enforcement Matter – Case No. 51728**  
**North Texas Municipal Water District**  
**RN102342144**  
**Docket No. 2016-0067-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

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

North Texas Municipal Water District Rowlett Creek, located at 1600 Los Rios Boulevard and collection system with an associated sewer main located near the 600 block of Executive Drive in Plano, Collin County

**Type of Operation:**

Wastewater treatment plant and collection system with an associated sewer main

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 27, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,425

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

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

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

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

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$7,425

Name of SEP: Texoma Council of Governments (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 51728**  
**North Texas Municipal Water District**  
**RN102342144**  
**Docket No. 2016-0067-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** November 12, 2015  
**Date(s) of NOE(s):** January 11, 2016

***Violation Information***

Failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010363001, Permit Conditions No. 2.g.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On November 10, 2015, ceased the unauthorized discharge of wastewater.
- b. By November 13, 2015:
  - i. Isolated and repaired the force main;
  - ii. Removed and properly disposed of the dead fish; and
  - iii. Cleaned and disinfected the area affected by the unauthorized discharge.

**Technical Requirements:**

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

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 51728**  
**North Texas Municipal Water District**  
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***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Claudia Corrales, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4935; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

**Respondent:** Thomas W. Kula, Executive Director, North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098

Joshua Hathaway, Compliance Manager, North Texas Municipal Water District, P.O. Box 2408, Wylie, Texas 75098

**Respondent's Attorney:** Brad Castleberry, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701



**Attachment A**  
**Docket Number: 2016-0067-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>North Texas Municipal Water District</b>
<b>Penalty Amount:</b>	<b>Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425)</b>
<b>SEP Offset Amount:</b>	<b>Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Texoma Council of Governments</b>
<b>Project Name:</b>	<b><i>Household Hazardous Waste Collection Events</i></b>
<b>Location of SEP:</b>	<b>Cooke, Fannin, &amp; Grayson Counties; Red River, Trinity River, &amp; Sulphur River Basins</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 **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* 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 hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

North Texas Municipal Water District  
Agreed Order - Attachment A

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

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region’s rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

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 **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments  
Attention: Municipal Solid Waste Program Manager  
1117 Gallagher Drive  
Sherman, Texas 75090

### 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:

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)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	11-Jan-2016	<b>Screening</b>	12-Jan-2016	<b>EPA Due</b>	
	<b>PCW</b>	12-Jan-2016				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	North Texas Municipal Water District				
<b>Reg. Ent. Ref. No.</b>	RN102342144				
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	51728	<b>No. of Violations</b>	1
<b>Docket No.</b>	2016-0067-MWD-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>	Claudia Corrales
		<b>EC's Team</b>	Enforcement Team 1
<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**

### 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    
 Estimated Cost of Compliance    
 \*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 12-Jan-2016

Docket No. 2016-0067-MWD-E

PCW

Respondent North Texas Municipal Water District

Policy Revision 4 (April 2014)

Case ID No. 51728

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102342144

Media [Statute] Water Quality

Enf. Coordinator Claudia Corrales

**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> )	5	25%
	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> )	1	-1%
	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)** 24%

>> **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 five months of self-reported effluent violations and reduction for one Notice of Intent.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 24%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 24%

Screening Date 12-Jan-2016

Docket No. 2016-0067-MWD-E

PCW

Respondent North Texas Municipal Water District

Policy Revision 4 (April 2014)

Case ID No. 51728

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102342144

Media [Statute] Water Quality

Enf. Coordinator Claudia Corrales

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 Permit No. WQ0010363001, Permit Conditions No. 2.g

Violation Description

Failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, as documented during an investigation conducted on November 12, 2015. Specifically, on November 10, 2015, a rupture in the sewer main in the collection system located near the 600 block of Executive Drive occurred, discharging approximately 797,000 gallons of wastewater into storm drains then into Spring Creek, resulting in a fish kill of approximately 1,741 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

3 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One monthly event is recommended from the date the discharge began (November 10, 2015), to the date corrective actions were completed (November 13, 2015).

Good Faith Efforts to Comply

25.0%

Reduction \$1,875

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on November 13, 2015.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$7,425

This violation Final Assessed Penalty (adjusted for limits) \$7,425

# Economic Benefit Worksheet

**Respondent** North Texas Municipal Water District  
**Case ID No.** 51728  
**Reg. Ent. Reference No.** RN102342144  
**Media** Water Quality  
**Violation No.** 1

<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
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$39,877	10-Nov-2015	13-Nov-2015	0.01	\$1	\$22	\$23
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

Actual cost to cease the unauthorized discharge; isolate and repair the force main; remove and properly dispose of the dead fish; and clean and disinfect the affected area. Date required is the date the discharge began and the final date is the date all of the corrective actions were completed.

**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

\$39,877	<b>TOTAL</b>	\$23
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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.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601365448, RN102342144, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN601365448, North Texas Municipal Water District      **Classification:** SATISFACTORY      **Rating:** 1.25

**Regulated Entity:** RN102342144, NORTH TEXAS MUNICIPAL WATER DISTRICT ROWLETT CREEK      **Classification:** SATISFACTORY      **Rating:** 0.79

**Complexity Points:** 8      **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** LOCATED AT 1600 LOS RIOS BOULEVARD WITH AN ASSOCIATED SEWER MAIN LOCATED NEAR THE 600 BLOCK OF EXECUTIVE DRIVE IN PLANO, COLLIN COUNTY, TEXAS

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

**ID Number(s):**

<b>AIR NEW SOURCE PERMITS</b> ACCOUNT NUMBER CP00451	<b>WASTEWATER PERMIT</b> WQ0010363001
<b>WASTEWATER AUTHORIZATION</b> R10363001	<b>WASTEWATER EPA ID</b> TX0047911
<b>PRETREATMENT PERMIT</b> WQ0010363001	<b>PRETREATMENT EPA ID</b> TX0047911000
<b>WASTEWATER LICENSING</b> LICENSE WQ0010363001	

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

**Date Compliance History Report Prepared:** January 13, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 12, 2011 to January 12, 2016

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

**Name:** Claudia Corrales      **Phone:** (512) 239-4935

## Site and Owner/Operator History:

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

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

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

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

Item 1	February 22, 2011	(909670)
Item 2	February 28, 2011	(926681)
Item 3	March 21, 2011	(916892)







TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
NORTH TEXAS MUNICIPAL WATER	§	TEXAS COMMISSION ON
DISTRICT	§	
RN102342144	§	ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2016-0067-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding North Texas Municipal Water 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, represented by Mr. Brad Castleberry of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C., presented this agreement to the Commission.

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

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

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

## I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at 1600 Los Rios Boulevard and collection system with an associated sewer main located near the 600 block of Executive Drive in Plano, Collin County, Texas (the "Site").
2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on November 12, 2015, TCEQ staff documented that on November 10, 2015, a rupture in the sewer main in the collection system located near the 600 block of Executive Drive occurred, discharging approximately 797,000 gallons of wastewater into storm drains then into Spring Creek, resulting in a fish kill of approximately 1,741 fish.
4. The Respondent received notice of the violations on January 13, 2016.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
  - a. On November 10, 2015, ceased the unauthorized discharge of wastewater.
  - b. By November 13, 2015:
    - i. Isolated and repaired the force main;
    - ii. Removed and properly disposed of the dead fish; and
    - iii. Cleaned and disinfected the area affected by the unauthorized discharge.

## 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 an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010363001, Permit Conditions No. 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425) 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. Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425) of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms of this Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

### 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 Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: North Texas Municipal Water District, Docket No. 2016-0067-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 an SEP as set forth in Section II, Paragraph 4. The amount of Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425) 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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

North Texas Municipal Water District  
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Page 5

10. 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

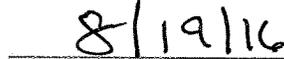
### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date



Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of North Texas Municipal Water District. I am authorized to agree to the attached Agreed Order on behalf of North Texas Municipal Water District, 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.

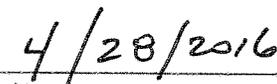
I understand that by entering into this Agreed Order, North Texas Municipal Water District waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and 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:

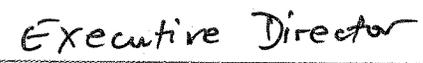
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement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

  
Date

  
Name (Printed or typed)  
Authorized Representative of  
North Texas Municipal Water District

  
Title

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

Attachment A  
Docket Number: 2016-0067-MWD-E  
SUPPLEMENTAL ENVIRONMENTAL PROJECT

<b>Respondent:</b>	North Texas Municipal Water District
<b>Penalty Amount:</b>	Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425)
<b>SEP Offset Amount:</b>	Seven Thousand Four Hundred Twenty-Five Dollars (\$7,425)
<b>Type of SEP:</b>	Contribution to a Third-Party Pre-Approved SEP
<b>Third-Party Administrator:</b>	Texoma Council of Governments
<b>Project Name:</b>	<i>Household Hazardous Waste Collection Events</i>
<b>Location of SEP:</b>	Cooke, Fannin, & Grayson Counties; Red River, Trinity River, & Sulphur River Basins

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 **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* 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 hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

North Texas Municipal Water District  
Agreed Order - Attachment A

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

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region's rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

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 **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments  
Attention: Municipal Solid Waste Program Manager  
1117 Gallagher Drive  
Sherman, Texas 75090

### 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:

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.