

Executive Summary – Enforcement Matter – Case No. 59723
Texas Department of Transportation
RN102674090 and RN105163000
Docket No. 2020-1120-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Live Oak County Safety Rest Area - North Bound, located approximately two miles northwest of the intersection of IH-37 and U.S. Highway 281, Live Oak County ("Facility No. 1");

Live Oak County Safety Rest Area WWTS - South Bound, located approximately 5.9 miles northwest of the intersection of IH-37 and U.S. Highway 281, Live Oak County ("Facility No. 2")

Type of Operation:

Safety rest area wastewater treatment facilities

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 8, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,375

Amount Deferred for Expedited Settlement: \$1,875

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$7,500

Name of SEP: Bayou Land Conservancy (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. 59723
Texas Department of Transportation
RN102674090 and RN105163000
Docket No. 2020-1120-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 25, 2020 and July 22, 2020

Date(s) of NOE(s): July 31, 2020

Violation Information

1. Failed to comply with permitted effluent limitations at Facility No. 1 for biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014767001, Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to comply with permitted effluent limitations at Facility No. 2 for biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014767001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

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

2. The Order will also require the Respondent to, within 130 days:

a. Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014767001 at Facility No. 1, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and

b. Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014768001 at Facility No. 2, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Executive Summary – Enforcement Matter – Case No. 59723
Texas Department of Transportation
RN102674090 and RN105163000
Docket No. 2020-1120-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ellen Ojeda, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2581; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Bayou Land Conservancy, 10330 Lake Road, Building J, Houston, Texas 77070

Respondent: Marc D. Williams, Executive Director, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701

Daniel Stacks, Maintenance Division Director, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	3-Aug-2020	Screening	7-Aug-2020	EPA Due	
	PCW	1-Sep-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Department of Transportation (Facility No. 1)
Reg. Ent. Ref. No.	RN102674090
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59723	No. of Violations	1
Docket No.	2020-1120-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Ellen Ojeda
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0%	Adjustment	Subtotals 2, 3, & 7	\$1,500
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Notes: Enhancement for two self-reported effluent violations and one agreed order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$568
 Estimated Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$6,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,500
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,300
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,200
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Screening Date 7-Aug-2020

Docket No. 2020-1120-MWD-E

PCW

Respondent Texas Department of Transportation (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 59723

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102674090

Media Water Quality

Enf. Coordinator Ellen Ojeda

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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%
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) 30%

>> 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 two self-reported effluent violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 7-Aug-2020

Docket No. 2020-1120-MWD-E

PCW

Respondent Texas Department of Transportation (Facility No. 1)

Policy Revision 4 (April 2014)

Case ID No. 59723

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102674090

Media Water Quality

Enf. Coordinator Ellen Ojeda

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014767001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4 152 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Four quarterly 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	

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$568

Violation Final Penalty Total \$6,500

This violation Final Assessed Penalty (adjusted for limits) \$6,500

Economic Benefit Worksheet

Respondent Texas Department of Transportation (Facility No. 1)
Case ID No. 59723
Reg. Ent. Reference No. RN102674090
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	Costs Saved	EB Amount
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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)	\$5,000	30-Jun-2019	7-Oct-2021	2.27	\$568	n/a	\$568

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. Date required is the end date of the first month of noncompliance and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$568



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	3-Aug-2020	Screening	11-Aug-2020	EPA Due	
	PCW	1-Sep-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Department of Transportation (Facility No. 2)
Reg. Ent. Ref. No.	RN105163000
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59723	No. of Violations	1
Docket No.	2020-1120-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Ellen Ojeda
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	15.0%	Adjustment	Subtotals 2, 3, & 7	\$375
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Notes: Enhancement for three self-reported effluent violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$442
 Estimated Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,875
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DEFERRAL	20.0%	Reduction	Adjustment	-\$575
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,300
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Screening Date 11-Aug-2020

Docket No. 2020-1120-MWD-E

PCW

Respondent Texas Department of Transportation (Facility No. 2)

Policy Revision 4 (April 2014)

Case ID No. 59723

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105163000

Media Water Quality

Enf. Coordinator Ellen Ojeda

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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%
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) 15%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date 11-Aug-2020

Docket No. 2020-1120-MWD-E

PCW

Respondent Texas Department of Transportation (Facility No. 2)

Policy Revision 4 (April 2014)

Case ID No. 59723

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105163000

Media Water Quality

Enf. Coordinator Ellen Ojeda

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014768001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 91 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly 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	

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 \$442

Violation Final Penalty Total \$2,875

This violation Final Assessed Penalty (adjusted for limits) \$2,875

Economic Benefit Worksheet

Respondent Texas Department of Transportation (Facility No. 2)
Case ID No. 59723
Reg. Ent. Reference No. RN105163000
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	Costs Saved	EB Amount
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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)	\$5,000	31-Dec-2019	7-Oct-2021	1.77	\$442	n/a	\$442

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and make any necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. Date required is the end date of the first month of noncompliance and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$442

Texas Department of Transportation
Docket No. 2020-1120-MWD-E
TPDES Permit No. WQ0014767001

Effluent Violation Table

Month/Year	Biochemical Oxygen Demand (5-day)	
	Daily Average Concentration	Single Grab Concentration
	Limit= 10 mg/L	Limit= 35 mg/L
June 2019	12	36
October 2019	13	37
December 2019	14	c
February 2020	14.75	c
March 2020	18.5	c

c= compliant
mg/L= milligrams per liter

Texas Department of Transportation Docket No. 2020-1120-MWD-E TPDES Permit No. WQ0014768001	
Effluent Violation Table	
Month/Year	Biochemical Oxygen Demand (5-day)
	Daily Average Concentration
	Limit= 10 mg/L
December 2019	16
February 2020	13.5
March 2020	19

mg/L= milligrams per liter

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

Compliance History Report for CN600803456, RN102674090, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600803456, Texas Department of Transportation
Classification: SATISFACTORY **Rating:** 1.28

Regulated Entity: RN102674090, LIVE OAK COUNTY SAFETY REST AREA NORTHBOUND
Classification: SATISFACTORY **Rating:** 1.60

Complexity Points: 4
Repeat Violator: NO

CH Group: 14 - Other

Location: approximately 2 miles northwest of the intersection of Interstate Highway 37 and U.S. Highway 281, in Live Oak County, Texas

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1490026

WASTEWATER PERMIT WQ0014767001

WASTEWATER EPA ID TX0129305

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: January 21, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 21, 2016 to January 21, 2021

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

Name: Ellen Ojeda

Phone: (512) 239-2581

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

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

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

1 Effective Date: 10/17/2017 ADMINORDER 2017-0356-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)

30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failed to provide each ground storage tank ("GST") with the minimum number, size, and type of roof vents, man ways, drains, sample connections, access ladders, overflows, liquid level indicators, and other appurtenances as specified in these rules, and failed to ensure that overflows terminating at any point above ground level are located near enough and at a position accessible from a ladder or balcony for inspection purposes.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)

Description: Failed to make a water purchase contract available to the Executive Director in order that production, storage, service pump, or pressure maintenance capacity may be properly evaluated. Specifically, MCCOY WATER SUPPLY CORPORATION was the sole provider of water for the Facility, and no purchase water contract was made available.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)

30 TAC Chapter 290, SubChapter D 290.39(j)(1)(A)

5A THSC Chapter 341, SubChapter A 341.0351

Description: Failed to notify and obtain approval of plans and specifications from the Executive Director prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failed to provide all water storage tanks with a liquid level indicator located at the tank site. Specifically, the moving targets were broken and unable to measure the water level for three of the six ground storage tanks.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(v)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a minimum pressure tank capacity of 220 gallons with additional capacity, if necessary, based on a sanitary survey conducted by the Executive Director. Specifically, the Facility only provided ten gallons out of the required 220 gallons in pressure tank capacity, which was a 95% deficiency.

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 20, 2016	(1327165)
Item 2	March 20, 2016	(1333956)
Item 3	April 19, 2016	(1341083)
Item 4	May 20, 2016	(1347888)
Item 5	June 19, 2016	(1354301)
Item 6	July 12, 2016	(1361302)
Item 7	August 19, 2016	(1367715)
Item 8	September 18, 2016	(1374462)
Item 9	November 20, 2016	(1386559)
Item 10	December 19, 2016	(1392686)
Item 11	January 18, 2017	(1399302)
Item 12	February 20, 2017	(1406204)
Item 13	March 16, 2017	(1413312)
Item 14	April 20, 2017	(1419775)
Item 15	May 20, 2017	(1427423)
Item 16	June 18, 2017	(1433415)
Item 17	July 26, 2017	(1441993)
Item 18	September 20, 2017	(1452252)
Item 19	September 30, 2017	(1445659)
Item 20	October 18, 2017	(1458124)
Item 21	November 20, 2017	(1463551)
Item 22	December 12, 2017	(1469996)
Item 23	January 17, 2018	(1476710)
Item 24	January 18, 2018	(1461275)
Item 25	February 19, 2018	(1488848)
Item 26	March 19, 2018	(1492511)
Item 27	April 19, 2018	(1495815)
Item 28	May 17, 2018	(1502771)
Item 29	June 18, 2018	(1509864)
Item 30	July 19, 2018	(1516186)
Item 31	August 14, 2018	(1522228)
Item 32	September 17, 2018	(1529422)
Item 33	October 19, 2018	(1535729)
Item 34	November 20, 2018	(1543601)
Item 35	December 20, 2018	(1547305)
Item 36	January 19, 2019	(1566138)
Item 37	March 18, 2019	(1566137)
Item 38	May 17, 2019	(1587504)
Item 39	June 20, 2019	(1587505)
Item 40	August 30, 2019	(1601599)
Item 41	September 20, 2019	(1608506)
Item 42	October 16, 2019	(1615380)
Item 43	December 20, 2019	(1628519)
Item 44	February 13, 2020	(1642762)

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

Compliance History Report for CN600803456, RN105163000, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600803456, Texas Department of Transportation **Classification:** SATISFACTORY **Rating:** 1.28

Regulated Entity: RN105163000, LIVE OAK COUNTY SAFETY REST AREA WWTS - SOUTH BOUND **Classification:** SATISFACTORY **Rating:** 1.45

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: approximately 5.9 miles northwest of the intersection of Interstate Highway 37 and U.S. Highway 281, in Live Oak County, Texas

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

WASTEWATER EPA ID TX0129321

WASTEWATER PERMIT WQ0014768001

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: January 21, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 21, 2016 to January 21, 2021

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

Name: Ellen Ojeda

Phone: (512) 239-2580

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

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 20, 2016	(1327166)
Item 2	March 20, 2016	(1333957)
Item 3	April 19, 2016	(1341084)
Item 4	May 20, 2016	(1347889)
Item 5	June 19, 2016	(1354302)
Item 6	July 12, 2016	(1361303)
Item 7	September 18, 2016	(1374463)
Item 8	September 26, 2016	(1367716)
Item 9	October 15, 2016	(1380608)
Item 10	November 20, 2016	(1386560)
Item 11	December 19, 2016	(1392687)
Item 12	January 18, 2017	(1399303)

Item 13	February 20, 2017	(1406205)
Item 14	February 21, 2017	(1413313)
Item 15	April 20, 2017	(1419776)
Item 16	May 20, 2017	(1427424)
Item 17	June 18, 2017	(1433434)
Item 18	July 26, 2017	(1441995)
Item 19	September 20, 2017	(1452254)
Item 20	September 30, 2017	(1445661)
Item 21	October 18, 2017	(1458126)
Item 22	November 20, 2017	(1463553)
Item 23	December 12, 2017	(1469998)
Item 24	January 17, 2018	(1476712)
Item 25	February 19, 2018	(1488850)
Item 26	March 19, 2018	(1492513)
Item 27	April 19, 2018	(1495817)
Item 28	May 17, 2018	(1502773)
Item 29	June 18, 2018	(1509866)
Item 30	July 19, 2018	(1516188)
Item 31	September 17, 2018	(1522230)
Item 32	October 19, 2018	(1535731)
Item 33	November 20, 2018	(1543603)
Item 34	December 20, 2018	(1547307)
Item 35	January 19, 2019	(1566144)
Item 36	February 18, 2019	(1566142)
Item 37	April 20, 2019	(1573961)
Item 38	May 17, 2019	(1587508)
Item 39	June 20, 2019	(1587509)
Item 40	July 16, 2019	(1595334)
Item 41	August 30, 2019	(1601601)
Item 42	September 28, 2019	(1608508)
Item 43	October 16, 2019	(1615382)
Item 44	November 21, 2019	(1621183)
Item 45	December 20, 2019	(1628521)
Item 46	February 13, 2020	(1642764)
Item 47	May 19, 2020	(1662176)
Item 48	July 10, 2020	(1675669)
Item 49	August 18, 2020	(1682441)
Item 50	September 11, 2020	(1689006)
Item 51	October 13, 2020	(1695371)

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

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

- 1 Date: 02/29/2020 (1649267)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 2 Date: 03/31/2020 (1655633)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 3 Date: 05/31/2020 (1668719)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS DEPARTMENT OF
TRANSPORTATION
RN102674090 AND RN105163000**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2020-1120-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Texas Department of Transportation (the "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 safety rest area wastewater treatment facilities (the "Facilities") located approximately two miles northwest of the intersection of Interstate Highway 37 and United States Highway 281, in Live Oak County, Texas ("Facility No. 1"); and approximately 5.9 miles northwest of the intersection of Interstate Highway 37 and United States Highway 281, in Live Oak County, Texas ("Facility No. 2"). The Facilities are near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$9,375 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$1,875 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$7,500 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 attached 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 and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

1. During a record review conducted on June 25, 2020, an investigator documented that the Respondent failed to comply with permitted effluent limitations at Facility No. 1, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014767001, Effluent Limitations and Monitoring Requirements No. 1, as shown in the effluent violation table below:

Month/Year	Biochemical Oxygen Demand (5-day)	
	Daily Average Concentration	Single Grab Concentration
	Limit= 10 mg/L	Limit= 35 mg/L
June 2019	12	36
October 2019	13	37
December 2019	14	c
February 2020	14.75	c
March 2020	18.5	c

c= compliant
mg/L= milligrams per liter

- During a record review conducted on July 22, 2020, an investigator documented that the Respondent failed to comply with permitted effluent limitations at Facility No. 2, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0014768001, Effluent Limitations and Monitoring Requirements No. 1, as shown in the effluent violation table below:

Month/Year	Biochemical Oxygen Demand (5-day)
	Daily Average Concentration
	Limit= 10 mg/L
December 2019	16
February 2020	13.5
March 2020	19

mg/L= milligrams per liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

- The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Department of Transportation, Docket No. 2020-1120-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 I, Paragraph No. 4. The amount of \$7,500 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. 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 Respondent shall, within 130 days after the effective date of this Order:
 - a. Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014767001 at Facility No. 1, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
 - b. Submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014768001 at Facility No. 2, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
 - c. The certifications for Ordering Provision Nos. 3.a and 3.b shall include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5839

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. This 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 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 Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 Order shall constitute an original signature for all purposes and may be used, filed, substituted, or

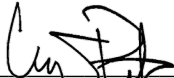
issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The 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

8/10/2022

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

DocuSigned by:

DE1B35AE191749E

Signature

Marc Williams

Name (Printed or typed)
Authorized Representative of
Texas Department of Transportation

7/11/2022

Date

Exec Director

Title

If mailing address has changed, please check this box and provide the new address below:

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

Attachment A
Docket Number: 2020-1120-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Transportation
Payable Penalty Amount:	\$7,500
SEP Offset Amount:	\$7,500
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Bayou Land Conservancy
Project Name:	<i>Lake Houston Watershed – Western Watershed Protection Project</i>
Location of SEP:	Harris and Montgomery Counties; San Jacinto River Basin; and Gulf Coast Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of 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 **Bayou Land Conservancy** for the *Lake Houston Watershed – Western Watershed Protection Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”).

The Third-Party Administrator has identified approximately 600 acres along the West Fork of the San Jacinto River, Spring Creek, Cypress Creek, and Lake Creek for acquisition of perpetual conservation easements in accordance with Subchapter A, Chapter 183, TEXAS NATURAL RESOURCES CODE. The goal of this Project is to protect the floodplain within the western tributaries of the Lake Houston Watershed. Specifically, the SEP Offset Amount will be used to conduct certain due diligence activities and to purchase conservation easements from private and public landowners. The Third-Party Administrator shall also conduct restoration work as necessary on properties that were previously degraded before being placed under a conservation easement. Targeted properties are owned by Harris County, Montgomery County, and private landowners. After a property has been identified for conservation easement acquisition, the Third-Party Administrator shall submit a proposal to TCEQ that includes property owner

Texas Department of Transportation
Agreed Order - Attachment A

information, approximate boundaries and aerial maps, preliminary flora/fauna lists and environmental details of stream frontage, wetland acreage, habitat type, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for approved due diligence activities and purchase of the conservation easement.

After TCEQ approval, the Third-Party Administrator shall prepare a baseline inventory and mapping of the property. The baseline inventory will assess the ecological health of the tract, including onsite biological inventories of all flora and fauna species. Mapping will be completed by collecting data to prepare flood, topographic, wetland, soil, and aerial field maps. This information will determine whether restoration activities will be necessary and will also ensure that the Third-Party Administrator can preserve the ecological health of the property in the future.

The Third-Party Administrator shall address and remedy all encumbrances to the property title, including mortgages and other liens, prior to closing on the conservation easement purchase. The Third-Party Administrator shall not sell conservation easements or any other land interests acquired with the SEP Offset Amount. The Third-Party Administrator shall record a copy of each conservation easement in the county deed records within 15 days of closing. The Third-Party Administrator certifies that the conservation easements purchased for this Project will not be used as any additional or future mitigation project. The Third-Party Administrator shall also use the SEP Offset Amount for habitat restoration and enhancement, including planting native trees. Restoration activities will be conducted by a contractor and will take place on property protected by a conservation easement. Prior to commencing restoration activities, the Third-Party Administrator shall submit a proposal to TCEQ that includes the exact property location and description, property owner information, specific restoration activities to be conducted, amount of the SEP Offset Amount to be used for restoration activities, and any other information that may be requested by TCEQ. Upon written approval by TCEQ, the Third-Party Administrator may use the SEP Offset Amount for the approved restoration activities. 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 to settle this enforcement action. The Respondent shall not profit from this SEP.

Texas Department of Transportation
Agreed Order - Attachment A

b. Environmental Benefit

Rapid development in the Lake Houston Watershed has led to removal of the natural riparian buffers along the waterways, which jeopardizes the air and water quality. Spring Creek, Cypress Creek, Lake Creek, and the West Fork of the San Jacinto River are major water sources for Lake Houston, which is Houston's primary source of drinking water. When land is cleared and developed within these floodplains, the water becomes more turbid and often has increased *Escherichia coli* bacteria and other negative water quality contaminants.

Lands permanently preserved with conservation easements maintain vegetated banks and wooded floodplains to allow river overflow. When floodwater passes through the floodplain, the vegetated substrates are not eroded away, and the banks are maintained. Preserving the natural vegetated banks will help maintain water quality in this area. Additionally, many of the properties Third-Party Administrator will secure with conservation easements will be open to the public for low-impact recreational uses, and wildlife will benefit from connected habitat and undisturbed access to water sources.

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 **Bayou Land Conservancy SEP** and shall mail the contribution with a copy of the Agreed Order to:

Bayou Land Conservancy
Attention: Executive Director
10330 Lake Road, Building J
Houston, Texas 77070

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 Department of Transportation
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.