

Executive Summary – Enforcement Matter – Case No. 60222
Texas Department of Transportation
RN102075470
Docket No. 2021-0135-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Sinton Maintenance and Construction, 11571 U.S. Highway 181, Sinton, San Patricio County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 15, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,500

Amount Deferred for Expedited Settlement: \$2,500

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$5,000

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

Supplemental Environmental Project (“SEP”) Conditional Offset: \$5,000

Name of SEP: The University of Texas at Austin Lyndon B. Johnson School of Public Affairs (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 60222
Texas Department of Transportation
RN102075470
Docket No. 2021-0135-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 13, 2020
Date(s) of NOE(s): December 11, 2020

Violation Information

Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state. Specifically, Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0013412001 expired on March 1, 2020, and the Respondent continued to operate the wastewater treatment facility without authorization [30 TEX. ADMIN. CODE § 305.65 and TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete two SEPs (see SEP Attachments A and B).
2. The Order will also require the Respondent to:
 - a. Immediately, until such time that authorization to operate is obtained or until 300 days, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0013412001;
 - b. Within 30 days, submit a wastewater permit application; and
 - c. Within 300 days, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

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Docket No. 2021-0135-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: Texas Water Development Board, Groundwater Monitoring Section, P.O. Box 13231, Austin, Texas 78711-3231

SEP Third-Party Administrator: The University of Texas at Austin Office of Sponsored Projects, 101 East 27th Street, Stop A9000, Suite 5.300 Austin, Texas 78712-1532

Respondent: James M. Bass, Executive 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	21-Dec-2020	Screening	29-Dec-2020	EPA Due	
	PCW	20-Jan-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Department of Transportation
Reg. Ent. Ref. No.	RN102075470
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60222	No. of Violations	1
Docket No.	2021-0135-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	\$12,500
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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	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for Compliance History.

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: \$2,483
 Estimated Cost of Compliance: \$25,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,500
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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	\$12,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,500
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,500
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$10,000
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Screening Date 29-Dec-2020

Docket No. 2021-0135-MWD-E

PCW

Respondent Texas Department of Transportation

Case ID No. 60222

Reg. Ent. Reference No. RN102075470

Media Water Quality

Enf. Coordinator Ellen Ojeda

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

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

>> 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

No adjustment for Compliance History.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 29-Dec-2020

Docket No. 2021-0135-MWD-E

PCW

Respondent Texas Department of Transportation

Policy Revision 4 (April 2014)

Case ID No. 60222

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102075470

Media Water Quality

Enf. Coordinator Ellen Ojeda

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.65 and Tex. Water Code § 26.121(a)(1)

Violation Description Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state. Specifically, Texas Pollutant Discharge Elimination System Permit No. WQ0013412001 expired on March 1, 2020, and the Respondent continued to operate the wastewater treatment facility without authorization.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 10 Number of violation days 303

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event).

Violation Base Penalty \$12,500

Ten monthly events are recommended, calculated from the date the permit expired (March 1, 2020) to the screening date (December 29, 2020).

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$12,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,483

Violation Final Penalty Total \$12,500

This violation Final Assessed Penalty (adjusted for limits) \$12,500

Economic Benefit Worksheet

Respondent Texas Department of Transportation
Case ID No. 60222
Reg. Ent. Reference No. RN102075470
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)	\$25,000	1-Mar-2020	24-Feb-2022	1.99	\$2,483	n/a	\$2,483

Notes for DELAYED costs

Estimated cost to prepare and submit an application and obtain authorization to discharge wastewater. The date required is the permit expiration date 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

\$25,000

TOTAL

\$2,483

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, RN102075470, 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: RN102075470, SINTON MAINT & CONST **Classification:** HIGH **Rating:** 0.00
Complexity Points: 1 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 11571 U.S. Highway 181, Sinton, in San Patricio County, Texas
TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

WASTEWATER EPA ID 0141003

WASTEWATER PERMIT WQ0013412002

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

Date Compliance History Report Prepared: May 25, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 25, 2016 to May 25, 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:

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	May 26, 2016	(1347206)
Item 2	June 23, 2016	(1353620)
Item 3	September 22, 2016	(1373764)
Item 4	October 26, 2016	(1379914)
Item 5	December 02, 2016	(1385850)
Item 6	December 21, 2016	(1392010)
Item 7	January 25, 2017	(1398620)
Item 8	March 17, 2017	(1412601)
Item 9	March 21, 2017	(1405521)
Item 10	April 19, 2017	(1419113)
Item 11	May 11, 2017	(1426746)
Item 12	September 20, 2017	(1451567)
Item 13	September 29, 2017	(1444985)

Item 14	October 19, 2017	(1457443)
Item 15	November 13, 2017	(1462883)
Item 16	December 20, 2017	(1469314)
Item 17	February 21, 2018	(1488186)
Item 18	April 12, 2018	(1495143)
Item 19	May 21, 2018	(1502065)
Item 20	June 20, 2018	(1509187)
Item 21	July 06, 2018	(1515492)
Item 22	August 20, 2018	(1521542)
Item 23	September 11, 2018	(1528732)
Item 24	October 18, 2018	(1535055)
Item 25	November 14, 2018	(1542910)
Item 26	December 21, 2018	(1546651)
Item 27	January 25, 2019	(1564065)
Item 28	February 20, 2019	(1564063)
Item 29	March 18, 2019	(1564064)
Item 30	May 15, 2019	(1586173)
Item 31	June 17, 2019	(1586174)
Item 32	July 16, 2019	(1594630)
Item 33	August 12, 2019	(1600930)
Item 34	September 19, 2019	(1607845)
Item 35	October 16, 2019	(1614711)
Item 36	November 20, 2019	(1620499)
Item 37	December 18, 2019	(1627850)
Item 38	January 23, 2020	(1635477)
Item 39	February 19, 2020	(1642094)
Item 40	March 18, 2020	(1648607)
Item 41	April 06, 2020	(1654960)
Item 42	May 18, 2020	(1661521)
Item 43	June 23, 2020	(1668054)
Item 44	July 13, 2020	(1675000)
Item 45	August 27, 2020	(1681769)
Item 46	September 19, 2020	(1688347)
Item 47	October 11, 2020	(1694704)
Item 48	November 16, 2020	(1716708)
Item 49	December 15, 2020	(1716709)
Item 50	January 13, 2021	(1716710)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS DEPARTMENT OF
TRANSPORTATION
RN102075470**

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§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2021-0135-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 a wastewater treatment facility located at 11571 U.S. Highway 181, Sinton, in San Patricio County, Texas (the "Facility"). The Facility is 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 \$12,500 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$2,500 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and 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, \$10,000 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 and Attachment B", 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

During a record review conducted on November 13, 2020, an investigator documented that the Respondent failed to maintain authorization to discharge wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.65 and TEX. WATER CODE § 26.121(a)(1). Specifically, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013412001 expired on March 1, 2020, and the Respondent continued to operate the wastewater treatment facility without authorization.

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:

1. 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. 2021-0135-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 \$10,000 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 and Attachment B. 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 undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, until such time that authorization to operate is obtained or until 300 days after the effective date of this Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0013412001.
 - b. Within 30 days after the effective date of this Order, submit a wastewater permit application, in accordance with 30 TEX. ADMIN. CODE § 305.65 to:

Application Review and Processing Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.

- c. Within 300 days after the effective date of this Order, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall 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 Facility 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.


Texas Department of Transportation
DOCKET NO. 2021-0135-MWD-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



9/14/2022

For the Executive Director

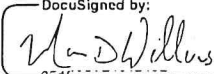
Date

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:


7/18/2022

Signature

Date

Marc Williams

Exec Director

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

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: 2021-0135-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Transportation
Payable Penalty Amount:	\$10,000
SEP Offset Amount:	\$5,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Water Development Board
Project Name:	<i>Water-Level Recorder Data in Every Texas County</i>
Location of SEP:	Statewide, with Preference for San Patricio County

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

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

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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.

b. Environmental Benefit

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

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Water Development Board SEP** and shall mail the contribution with a copy of the Agreed Order to:

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

3. Records and Reporting

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

Texas Department of Transportation
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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.

Attachment B
Docket Number: 2021-0135-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Transportation
Payable Penalty Amount:	\$10,000
SEP Offset Amount:	\$5,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	The University of Texas at Austin Lyndon B. Johnson School of Public Affairs
Project Name:	<i>Lower Rio Grande Water Quality Initiatives</i>
Location of SEP:	Rio Grande River Basin

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 B.

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 University of Texas at Austin Lyndon B. Johnson School of Public Affairs** for the *Lower Rio Grande Water Quality Initiative* 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 assist communities in the Lower Rio Grande region (from the Falcon Dam to the Gulf of Mexico) by working with TCEQ, Environmental Protection Agency, Comisión Nacional de Agua, and Comisión Estratal del Agua de Tamaulipas to improve Rio Grande water quality. The Third-Party Administrator shall support the bi-national technical committees associated with state, national, and international water institutions currently taking steps to improve water quality on the Lower Rio Grande by bringing to their attention the voices and concerns of the Lower Rio Grande region’s municipalities, counties, and irrigation districts.

The Third-Party Administrator shall use the SEP Offset Amount to provide technical assistance, such as creation of maps and graphics; analyses of surveys; and interviews with Texas stakeholders, to the technical groups working under the guidance of the International Boundary and Water Commission (“IBWC”) and its Mexican counterpart, Comisión Internacional de Limites y Agua. The Third-Party Administrator shall examine the impact of each of the potential infrastructure investments using water quality

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modeling and by conducting surveys of public opinion and preferences on improving water quality on both the United States and Mexico sides of the border.

The Project will be conducted by Third-Party Administrator staff through fieldwork within the Rio Grande Valley, giving presentations, participating in the bi-national meetings held along the border, report drafting and document preparation, gathering and analyzing survey data in communities along the border, and modeling of water quality data gathered by IBWC. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

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

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

b. Environmental Benefit

The Lower Rio Grande does not meet its designated use for contact recreation due to high levels of *Escherichia coli* ("*E. coli*"), a fecal indicator of bacteria. High levels of *E. coli* may indicate the presence of pathogenic organisms such as viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and sever gastroenteritis.

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 **The University of Texas at Austin Lyndon B. Johnson School of Public Affairs SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Department of Transportation
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The University of Texas at Austin
Office of Sponsored Projects
101 East 27th Street, Stop A9000, Suite 5.300
Austin, Texas 78712-1532

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 B, 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 B 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.