

Executive Summary – Enforcement Matter – Case No. 62434

City of Austin

RN101607794

Docket No. 2022-0673-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

South Austin Regional WWTP, 1017 Fallwell Lane, Del Valle, Travis 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: August 30, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$25,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$25,000

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

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 30, 2022

Date(s) of NOE(s): May 27, 2022

Executive Summary – Enforcement Matter – Case No. 62434

City of Austin

RN101607794

Docket No. 2022-0673-MWD-E

Violation Information

Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state [30 TEX. ADMIN. CODE § 305.125(1) and (5), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010543012, Permit Conditions No. 2.g].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By March 25, 2022, the Respondent ceased the discharge, repaired the 10-inch sewer main, and pumped approximately 972,000 gallons of water/wastewater from Country Club West Creek.

Technical Requirements:

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

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Megan Crinklaw, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1129; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Texas Water Development Board, P.O. Box 13231 Austin, Texas 78711-3231

Respondent: The Honorable Kirk Watson, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767

Shay Ralls Roalson, Austin Water Director, City of Austin, P.O. Box 1088, Austin, Texas 78767

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	31-May-2022	Screening	2-Jun-2022	EPA Due	
	PCW	3-Jun-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Austin
Reg. Ent. Ref. No.	RN101607794
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	62434	No. of Violations	1
Docket No.	2022-0673-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Megan Crinklaw
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$25,000
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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	25.0%	Adjustment	Subtotals 2, 3, & 7	\$6,250
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Notes	Enhancement for Repeat Violator Classification.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$6,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$0	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$15,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$25,000
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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	\$25,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$25,000
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$25,000
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Screening Date	2-Jun-2022	Docket No.	2022-0673-MWD-E	PCW
Respondent	City of Austin			
Case ID No.	62434			
Reg. Ent. Reference No.	RN101607794			
Media	Water Quality			
Enf. Coordinator	Megan Crinklaw			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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)

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for Repeat Violator Classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 2-Jun-2022 Respondent City of Austin Case ID No. 62434 Reg. Ent. Reference No. RN101607794 Media Water Quality Enf. Coordinator Megan Crinklaw Violation Number 1	Docket No. 2022-0673-MWD-E	PCW <small>Policy Revision 5 (January 28, 2021)</small> <small>PCW Revision February 11, 2021</small>
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Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and (5), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010543012, Permit Conditions No. 2.g
Violation Description	Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, on March 25, 2022, approximately 284,000 gallons of wastewater was discharged into Country Club West Creek from a broken 10-inch sewer main located at 2704 Catalina Drive, resulting in a fish kill of approximately 45 fish.

Base Penalty	\$25,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			
	Potential				100.0%

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
					0.0%

	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.	
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Adjustment	\$0
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	\$25,000
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Violation Events

Number of Violation Events	1		1	Number of violation days
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	daily			Violation Base Penalty
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			

One monthly event is recommended from the March 25, 2022 unauthorized discharge date to the March 25, 2022 compliance date.	
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Good Faith Efforts to Comply

	25.0%		Reduction
			\$6,250

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		
Notes	The Respondent achieved compliance by March 25, 2022.	

Violation Subtotal	\$18,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$0	Statutory Limit Test
		Violation Final Penalty Total
		\$25,000
		This violation Final Assessed Penalty (adjusted for limits)
		\$25,000

Economic Benefit Worksheet

Respondent City of Austin
Case ID No. 62434
Reg. Ent. Reference No. RN101607794
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	\$15,000	25-Mar-2022	25-Mar-2022	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Remediation/Disposal Cost to cease the discharge, repair the 10-inch sewer main, and pump approximately 972,000 gallons of water/wastewater from Country Club West Creek. Date Required is the unauthorized discharge date, and the Final Date is the 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

\$15,000

TOTAL

\$0



Compliance History Report

Compliance History Report for CN600135198, RN101607794, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600135198, City of Austin

Classification: SATISFACTORY

Rating: 3.20

Regulated Entity: RN101607794, SOUTH AUSTIN REGIONAL WWTP

Classification: SATISFACTORY

Rating: 30.61

Complexity Points: 11

Repeat Violator: YES

CH Group: 08 - Sewage Treatment Facilities

Location: 1017 Fallwell Lane, Del Valle, Travis County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

STORMWATER PERMIT TXR05FD21

STORMWATER PERMIT TXR1517DA

STORMWATER PERMIT TXR1513MO

WASTEWATER PERMIT WQ0010543012

WASTEWATER EPA ID TX0071889

WASTEWATER AUTHORIZATION R10543012

Compliance History Period: September 01, 2018 to August 31, 2023

Rating Year: 2023

Rating Date: 09/01/2023

Date Compliance History Report Prepared: May 01, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 01, 2019 to May 01, 2024

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

Name: Megan Crinklaw

Phone: (512) 239-1129

Site and Owner/Operator History:

- | | |
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| 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 15, 2019	(1585066)	Item 13	May 19, 2020	(1660980)
Item 2	June 14, 2019	(1585067)	Item 14	June 18, 2020	(1667513)
Item 3	July 18, 2019	(1594091)	Item 15	July 20, 2020	(1674465)
Item 4	September 19, 2019	(1607279)	Item 16	August 17, 2020	(1681237)
Item 5	September 30, 2019	(1600387)	Item 17	September 14, 2020	(1687806)
Item 6	October 13, 2019	(1614134)	Item 18	October 19, 2020	(1694155)
Item 7	November 18, 2019	(1619950)	Item 19	November 18, 2020	(1715116)
Item 8	November 20, 2019	(1604883)	Item 20	December 18, 2020	(1715117)
Item 9	January 19, 2020	(1634940)	Item 21	January 17, 2021	(1715118)
Item 10	February 17, 2020	(1641554)	Item 22	February 16, 2021	(1728181)
Item 11	March 19, 2020	(1648067)	Item 23	March 20, 2021	(1728182)
Item 12	April 17, 2020	(1654416)	Item 24	April 19, 2021	(1728183)

Item 25	May 17, 2021	(1741386)	Item 44	November 16, 2022	(1870370)
Item 26	June 07, 2021	(1722448)	Item 45	December 13, 2022	(1876221)
Item 27	June 16, 2021	(1741387)	Item 46	January 17, 2023	(1883038)
Item 28	July 13, 2021	(1724574)	Item 47	February 15, 2023	(1890847)
Item 29	July 16, 2021	(1752587)	Item 48	March 06, 2023	(1866888)
Item 30	August 14, 2021	(1758006)	Item 49	March 15, 2023	(1899418)
Item 31	September 16, 2021	(1767251)	Item 50	March 16, 2023	(1894435)
Item 32	October 15, 2021	(1777713)	Item 51	April 14, 2023	(1906221)
Item 33	November 17, 2021	(1784512)	Item 52	May 12, 2023	(1913377)
Item 34	December 18, 2021	(1791542)	Item 53	June 14, 2023	(1919985)
Item 35	January 18, 2022	(1799384)	Item 54	July 14, 2023	(1926953)
Item 36	February 14, 2022	(1807202)	Item 55	August 11, 2023	(1933910)
Item 37	March 17, 2022	(1814268)	Item 56	September 13, 2023	(1940053)
Item 38	April 15, 2022	(1820840)	Item 57	October 13, 2023	(1946895)
Item 39	May 16, 2022	(1829672)	Item 58	November 13, 2023	(1952584)
Item 40	June 15, 2022	(1835971)	Item 59	December 14, 2023	(1962355)
Item 41	August 15, 2022	(1849338)	Item 60	January 16, 2024	(1968945)
Item 42	September 15, 2022	(1857100)	Item 61	February 16, 2024	(1978010)
Item 43	October 17, 2022	(1863457)	Item 62	March 14, 2024	(1981670)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF AUSTIN
RN101607794

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

AGREED ORDER DOCKET NO. 2022-0673-MWD-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Austin (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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 1017 Fallwell Lane in Del Valle, Travis 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. During an investigation at the Facility conducted on March 30, 2022, an investigator documented that on March 25, 2022, approximately 284,000 gallons of wastewater discharged into Country Club West Creek from a broken 10-inch sewer main located at 2704 Catalina Drive, resulting in a fish kill of approximately 45 fish.
3. The Executive Director recognizes that by March 25, 2022, the Respondent ceased the discharge, repaired the 10-inch sewer main, and pumped approximately 972,000 gallons of water/wastewater from Country Club West Creek.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010543012, Permit Conditions No. 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$25,000 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to Tex. Water Code § 7.067, \$25,000 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" - 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

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Austin, Docket No. 2022-0673-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 the SEP as set forth in, Conclusion of Law No. 4. The amount of \$25,000 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. 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. All relief not expressly granted in this Order is denied.
4. 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.
5. 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.
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 in this Order.
7. 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.
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

Date

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 OAG 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 OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature


Date

Shay Ralls Roalson, P.E.
Name (Printed or typed)
Authorized Representative of
The City of Austin

Director, Austin Water
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: 2022-0673-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Austin
Payable Penalty Amount:	\$25,000
SEP Offset Amount:	\$25,000
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Texas Water Development Board
Project Name:	<i>Water-Level Recorder Data in Every Texas County</i>
Total Project Budget:	\$997,500
Location of SEP:	Statewide; preference for Travis County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Water Development Board** for the *Water-Level Recorder Data in Every Texas County* project (the “Project”). The Project is 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 Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

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.

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: Finance
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 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:

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.