

Executive Summary – Enforcement Matter – Case No. 64713
PDC Williams Plaza, Ltd.
RN111699997
Docket No. 2023-1245-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Rivery Commercial Subdivision, located southeast of the intersection of Rivery Boulevard and Williams Drive, Georgetown, Williamson County

Type of Operation:

Construction site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 18, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$29,250

Amount Deferred for Expedited Settlement: \$5,850

Total Paid to General Revenue: \$11,700

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$11,700

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

Compliance History Classifications:

Person/CN - High

Site/RN - High

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: June 8, 2023

Date(s) of NOE(s): August 8, 2023

Executive Summary – Enforcement Matter – Case No. 64713
PDC Williams Plaza, Ltd.
RN111699997
Docket No. 2023-1245-EAQ-E

Violation Information

Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activity over the Edwards Aquifer Recharge Zone. Specifically, construction demolition disturbed approximately 12.62 acres of the Site without prior approval of a Water Pollution Abatement Plan [30 TEX. ADMIN. CODE § 213.4(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By August 4, 2023, the Respondent obtained approval of a Water Pollution Abatement Plan under Edwards Aquifer Protection Plan ID No. 11003538.

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: Nancy Sims, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-5053; 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: Jon Silberman, Managing Partner, PDC Williams Plaza, Ltd., 1360 Post Oak Boulevard, Suite 1900, Houston, Texas 77056

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Aug-2023	Screening	7-Sep-2023	EPA Due	
	PCW	12-Jun-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	PDC Williams Plaza, Ltd.
Reg. Ent. Ref. No.	RN111699997
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	64713	No. of Violations	1
Docket No.	2023-1245-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nancy M. Sims
		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	\$45,000
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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	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$4,500
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Notes	Reduction for High Performer 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	-\$11,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$70
Estimated Cost of Compliance	\$9,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$29,250
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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	
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Final Penalty Amount	\$29,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$29,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$5,850
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$23,400
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Screening Date	7-Sep-2023	Docket No.	2023-1245-EAQ-E	PCW
Respondent	PDC Williams Plaza, Ltd.			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	64713			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN111699997			
Media	Edwards Aquifer			
Enf. Coordinator	Nancy M. Sims			

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)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer Classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 7-Sep-2023 Respondent PDC Williams Plaza, Ltd. Case ID No. 64713 Reg. Ent. Reference No. RN111699997 Media Edwards Aquifer Enf. Coordinator Nancy M. Sims Violation Number 1	Docket No. 2023-1245-EAQ-E <div style="border: 1px solid black; padding: 5px; text-align: center;"> 30 Tex. Admin. Code § 213.4(a)(1) </div>	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>	
Violation Description <div style="border: 1px solid black; padding: 10px; margin-top: 5px;"> failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activity over the Edwards Aquifer Recharge Zone. Specifically, construction demolition disturbed approximately 12.62 acres of the Site without prior approval of a Water Pollution Abatement Plan ("WPAP"). </div>			
Base Penalty		\$25,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
	Actual Potential	Major Moderate Minor	Percent
			0.0%
>> Programmatic Matrix			
	Falsification Major Moderate Minor		Percent
		x	20.0%
Matrix Notes	<div style="border: 1px solid black; padding: 10px; text-align: center;"> 100% of the rule requirements were not met. </div>		
Adjustment			\$20,000
			\$5,000
Violation Events			
Number of Violation Events		9	Number of violation days
<div style="display: flex; align-items: center;"> <div style="width: 30px; text-align: right; padding-right: 5px;">daily</div> <div style="border: 1px solid black; width: 80px; height: 20px;"></div> </div>		Violation Base Penalty	
<div style="display: flex; align-items: center;"> <div style="width: 30px; text-align: right; padding-right: 5px;">weekly</div> <div style="border: 1px solid black; width: 80px; height: 20px; text-align: center;">x</div> </div>			
<div style="display: flex; align-items: center;"> <div style="width: 30px; text-align: right; padding-right: 5px;">monthly</div> <div style="border: 1px solid black; width: 80px; height: 20px;"></div> </div>			
<div style="display: flex; align-items: center;"> <div style="width: 30px; text-align: right; padding-right: 5px;">quarterly</div> <div style="border: 1px solid black; width: 80px; height: 20px;"></div> </div>			
<div style="display: flex; align-items: center;"> <div style="width: 30px; text-align: right; padding-right: 5px;">semiannual</div> <div style="border: 1px solid black; width: 80px; height: 20px;"></div> </div>			
<div style="display: flex; align-items: center;"> <div style="width: 30px; text-align: right; padding-right: 5px;">annual</div> <div style="border: 1px solid black; width: 80px; height: 20px;"></div> </div>			
<div style="display: flex; align-items: center;"> <div style="width: 30px; text-align: right; padding-right: 5px;">single event</div> <div style="border: 1px solid black; width: 80px; height: 20px;"></div> </div>			
<div style="border: 1px solid black; padding: 10px; text-align: center;"> Nine weekly events are recommended from the June 8, 2023 investigation date to the August 4, 2023 compliance date. </div>			
Good Faith Efforts to Comply			
25.0%		Reduction	
Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer			
Extraordinary			
Ordinary	x		
N/A			
Notes	<div style="border: 1px solid black; padding: 10px;"> The Respondent achieved compliance on August 4, 2023. </div>		
Violation Subtotal			\$33,750
Economic Benefit (EB) for this violation Statutory Limit Test			
Estimated EB Amount		Violation Final Penalty Total	
\$70		\$29,250	
This violation Final Assessed Penalty (adjusted for limits)			\$29,250

Economic Benefit Worksheet

Respondent PDC Williams Plaza, Ltd.
Case ID No. 64713
Reg. Ent. Reference No. RN111699997
Media Edwards Aquifer
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	\$9,000	8-Jun-2023	4-Aug-2023	0.16	\$70	n/a	\$70
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Permit Costs to prepare and submit an Edwards Aquifer WPAP application and obtain approval. The Date Required is the date of the investigation, 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

\$9,000

TOTAL

\$70



Compliance History Report

Compliance History Report for CN606119360, RN111699997, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN606119360, PDC Williams Plaza, Ltd. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN111699997, RIVERY COMMERCIAL SUBDIVISION **Classification:** HIGH **Rating:** 0.00

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

CH Group: 09 - Construction

Location: Southeast of the intersection of Rivery Boulevard and Williams Drive, Georgetown, Williamson County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
EDWARDS AQUIFER PERMIT 11003802 **EDWARDS AQUIFER PERMIT 11003704**
EDWARDS AQUIFER PERMIT 11003538

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: April 10, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 10, 2019 to April 10, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Nancy M. Sims **Phone:** (512) 239-5053

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? NO
- 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.):

N/A

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PDC WILLIAMS PLAZA, LTD.
RN111699997

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

AGREED ORDER DOCKET NO. 2023-1245-EAQ-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 PDC Williams Plaza, Ltd. (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 large construction site located southeast of the intersection of Rivery Boulevard and Williams Drive in Georgetown, Williamson County, Texas (the "Site"). The Site 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 \$29,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$11,700 of the penalty and \$5,850 of the penalty 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 of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions 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, \$11,700 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.
9. The Executive Director recognizes that by August 4, 2023, the Respondent obtained approval of a Water Pollution Abatement Plan ("WPAP") under Edwards Aquifer Protection Plan ("EAPP") ID No. 11003538.

II. ALLEGATIONS

During an investigation at the Site conducted on June 8, 2023, an investigator documented that the Respondent failed to obtain approval of an EAPP prior to commencing regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1). Specifically, construction demolition disturbed approximately 12.62 acres of the Site without prior approval of a WPAP.

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: PDC Williams Plaza, Ltd., Docket No. 2023-1245-EAQ-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 Section I, Paragraph No. 4. The amount of \$11,700 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 Site 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. 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.
7. 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.
8. 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

11/4/2024

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

9/9/2024

Date



Name (Printed or typed)
Authorized Representative of
PDC Williams Plaza, Ltd.

Managing Partner

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: 2023-1245-EAQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	PDC Williams Plaza, Ltd.
Payable Penalty Amount:	\$23,400
SEP Offset Amount:	\$11,700
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 Williamson County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative payable 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.