

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1731-PWS-E **TCEQ ID:** RN101279057 **CASE NO.:** 36754

RESPONDENT NAME: Cherokee Independent School District

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input checked="" type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input checked="" type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Cherokee ISD, 305 South Indian Avenue, Cherokee, San Saba County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Chris Perry, Superintendent, Cherokee Independent School District, P.O. Box 100, Cherokee, Texas 76832 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 3, 2008</p> <p>Date of NOV/NOE Relating to this Case: October 9, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failed to collect a set of repeat coliform samples within 24 hours of being notified of a total coliform positive result [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)].</p> <p>2) Exceeded the Maximum Contaminant Level for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a)].</p> <p>3) Failed to collect at least five routine distribution coliform samples following a total coliform positive sample result [30 TEX. ADMIN. CODE § 290.109(c)(2)(F)].</p> | <p>Total Assessed: \$3,008</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,008</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that as of July 1, 2008, the Respondent is compliant with the coliform monitoring requirements and the Facility is providing water that meets the provisions regarding microbial contaminants.</p> |

Additional ID No(s): 2060010



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

| | | | | | |
|-------|----------|-------------|-----------|-------------|---------------------|
| DATES | Assigned | 13-Oct-2008 | | | |
| | PCW | 29-Oct-2008 | Screening | 27-Oct-2008 | EPA Due 31-Aug-2008 |

| | |
|--|--------------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Cherokee Independent School District |
| Reg. Ent. Ref. No. | RN101279057 |
| Facility/Site Region | 9-Waco |
| Major/Minor Source | Minor |

| | | | |
|---------------------------------|---------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36754 | No. of Violations | 3 |
| Docket No. | 2008-1731-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Amanda Henry |
| | | EC's Team | Enforcement Team 2 |
| Admin. Penalty \$ Limit Minimum | \$50 | Maximum | \$1,000 |

Penalty Calculation Section

| | | | |
|---|--|-----------------------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | | Subtotal 1 | \$2,250 |
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | | |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | | | |
| Compliance History | 42.0% Enhancement | Subtotals 2, 3, & 7 | \$945 |
| Notes | Enhancement recommended due to eight previous NOV's for same or similar violations and one unrelated NOV in the past five years. | | |
| Culpability | No 0.0% Enhancement | Subtotal 4 | \$0 |
| Notes | The Respondent does not meet the culpability criteria. | | |
| Good Faith Effort to Comply Total Adjustments | | Subtotal 5 | \$187 |
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
| Total EB Amounts | \$769 | *Capped at the Total EB \$ Amount | |
| Approx. Cost of Compliance | \$725 | | |
| SUM OF SUBTOTALS 1-7 | | Final Subtotal | \$3,008 |
| OTHER FACTORS AS JUSTICE MAY REQUIRE | | 0.0% Adjustment | \$0 |
| Reduces or enhances the Final Subtotal by the indicated percentage. | | | |
| Notes | | | |
| Final Penalty Amount | | | \$3,008 |
| STATUTORY LIMIT ADJUSTMENT | | Final Assessed Penalty | \$3,008 |
| DEFERRAL | | 0.0% Reduction Adjustment | \$0 |
| Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.) | | | |
| Notes | No deferral is recommended for Findings Orders. | | |
| PAYABLE PENALTY | | | \$3,008 |

Screening Date 27-Oct-2008

Docket No. 2008-1731-PWS-E

PCW

Respondent Cherokee Independent School District

Policy Revision 2 (September 2002)

Case ID No. 36754

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101279057

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 8 | 40% |
| | Other written NOVs | 1 | 2% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 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 (number of judgements or consent decrees meeting criteria) | 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 (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 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 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 42%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended due to eight previous NOVs for same or similar violations and one unrelated NOV in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 27-Oct-2008 **Docket No.** 2008-1731-PWS-E **PCW**
Respondent Cherokee Independent School District *Policy Revision 2 (September 2002)*
Case ID No. 36754 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101279057
Media [Statute] Public Water Supply
Enf. Coordinator Amanda Henry

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | X | | |

Percent

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent

Matrix Notes

Adjustment

\$250

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

| | |
|--------------|---|
| daily | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Cherokee Independent School District
Case ID No.: 36754
Reg. Ent. Reference No.: RN101279057
Media: Public Water Supply
Violation No.: 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|-------|------------|-------------|------|------|-------|-------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$300 | 1-Aug-2007 | 30-Nov-2007 | 1.25 | \$19 | \$300 | \$319 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided costs includes the amount to collect a set of repeat samples (4 samples per month at \$25 per sample), calculated for August, September, and November 2007.

Approx. Cost of Compliance

\$300

TOTAL

\$319

Screening Date 27-Oct-2008

Docket No. 2008-1731-PWS-E

PCW

Respondent Cherokee Independent School District

Policy Revision 2 (September 2002)

Case ID No. 36754

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101279057

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(3) and Tex. Health & Safety Code § 341.031(a)

Violation Description Exceeded the Maximum Contaminant Level ("MCL") for total coliform during the months of August, October, and November 2007.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | X | | 25% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes The presence of coliform bacteria is an indication that the water is contaminated with significant amounts of contaminants that do not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 91

mark only one with an x

| | |
|--------------|---|
| daily | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$750

Three monthly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$187

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | X | |
| N/A | | (mark with x) |

Notes The Respondent achieved compliance on July 1, 2008.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$212

Violation Final Penalty Total \$878

This violation Final Assessed Penalty (adjusted for limits) \$878

Economic Benefit Worksheet

Respondent: Cherokee Independent School District
Case ID No.: 36754
Reg. Ent. Reference No.: RN101279057
Media: Public Water Supply
Violation No.: 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$200 | 1-Aug-2008 | 30-Nov-2008 | 1.25 | \$12 | \$200 | \$212 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Avoided costs include additional oversight to properly treat the water to prevent the presence of coliform. The date required is the first day of the month of the first MCL exceedance. The final date is the last day of the month of the latest MCL exceedance.

Approx. Cost of Compliance

\$200

TOTAL

\$212

Screening Date 27-Oct-2008 **Docket No.** 2008-1731-PWS-E **PCW**
Respondent Cherokee Independent School District *Policy Revision 2 (September 2002)*
Case ID No. 36754 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101279057
Media [Statute] Public Water Supply
Enf. Coordinator Amanda Henry

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------------------------------------|--------------------------|--------------------------|----------------------------------|
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="25%"/> |
| Potential | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|---------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

| | |
|--------------|-------------------------------------|
| daily | <input type="text"/> |
| monthly | <input checked="" type="checkbox"/> |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

Good Faith Efforts to Comply

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|-------------------------------------|-------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="checkbox"/> | (mark with x) |

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Cherokee Independent School District
Case ID No.: 36754
Reg. Ent. Reference No.: RN101279057
Media: Public Water Supply
Violation No.: 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|-------|------------|-------------|------|------|-------|-------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$225 | 1-Oct-2007 | 31-Dec-2007 | 1.17 | \$13 | \$225 | \$238 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost to collect at least five water samples the month following a total coliform positive sample result (\$25 per sample). The Respondent failed to collect 4 samples for October, 2 samples for November, and 3 samples for December 2007.

Approx. Cost of Compliance

\$225

TOTAL

\$238

Compliance History Report

| | | | | |
|---|--|--------------------------------------|-----------------|--------------|
| Customer/Respondent/Owner-Operator: | CN600706147 | Cherokee Independent School District | Classification: | Rating: |
| Regulated Entity: | RN101279057 | CHEROKEE ISD | Classification: | Site Rating: |
| ID Number(s): | PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | | 2060010 |
| | WATER LICENSING | LICENSE | | 2060010 |
| Location: | 305 South Indian Avenue, Cherokee, San Saba County, Tx 76832 | | | |
| TCEQ Region: | REGION 09 - WACO | | | |
| Date Compliance History Prepared: | October 27, 2008 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | October 27, 2003 to October 27, 2008 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | Amanda Henry | Phone: | 713-767-3672 | |

Site Compliance History Components

- | | |
|--|-----|
| 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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

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

| | | |
|---|------------|----------|
| 1 | 12/11/2007 | (601060) |
| 2 | 02/07/2008 | (616628) |
| 3 | 10/01/2008 | (704297) |
| 4 | 10/01/2008 | (704314) |
| 5 | 10/01/2008 | (704316) |
| 6 | 10/01/2008 | (704325) |
| 7 | 10/01/2008 | (704333) |
| 8 | 10/10/2008 | (704350) |

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

Date: 09/07/2007 (704297)

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR Maximum Contaminant Level (MCL) Violation 8/2007 - System exceeded a MCL Violation.

Date: 10/12/2007 (704316)

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR Maximum Contaminant Level (MCL) Violation 10/2007 - System exceeded a MCL Violation.

Date: 10/23/2007 # (704297)

Self Report? No Classification Moderate

30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring Violation 08/2007 - Failure to collect all repeats following a coliform found result.

Date: 11/08/2007 (704325)

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR Maximum Contaminant Level (MCL) Violation 11/2007 - System exceeded a MCL Violation.

Date: 12/20/2007 (601060)

Self Report? No Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)

Description: Failure to maintain a record of the amount of water treated each week.

Self Report? No Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)

Description: Failure to provide an adequate plant operations manual.

Self Report? No Classification Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failure to provide an adequate chemical and microbiological monitoring plan.

Self Report? No Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to calibrate the well meter at the required interval.

Self Report? No Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to properly install the well casing vent.

Self Report? No Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)

Description: Failure to install electrical wiring in a conduit.

Date: 12/20/2007 (704314)

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring Violation 09/2007 - Failure to collect all repeats following a coliform found result.

Date: 01/31/2008 (704316)

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 10/2007 - Failure to collect all 5 distribution samples following a coliform found month.

Date: 02/14/2008 (704325)

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 11/2007 - Failure to collect all 5 distribution samples following a coliform found month.

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring Violation 11/2007 - Failure to collect any repeats following a coliform found result.

Date: 02/21/2008 (704333)

Self Report? No Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 12/2007 - Failure to collect all 5 distribution samples following a coliform found month.

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
CHEROKEE INDEPENDENT SCHOOL
DISTRICT
RN101279057

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-1731-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cherokee Independent School District ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 305 South Indian Avenue, Cherokee, San Saba County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.

2. During a file review on January 3, 2008, TCEQ staff documented that the Respondent:
 - a. Did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive result on a routine sample collected for the months of August, September, and November 2007;
 - b. Did not comply with the Maximum Contaminant Level ("MCL") for total coliform during the months of August, October, and November 2007; and
 - c. Did not collect at least five routine distribution coliform samples during the months (October, November, and December 2007) following a total coliform positive sample result.
3. The Respondent received notice of the violations on October 14, 2008.
4. The Executive Director recognizes that as of July 1, 2008, the Respondent is compliant with the coliform monitoring requirements and the Facility is providing water that meets the provisions regarding microbial contaminants.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2.a, the Respondent failed to collect a set of repeat coliform samples within 24 hours of being notified of a total coliform positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
3. As evidenced by Findings of Fact No. 2.b, the Respondent exceeded the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a).
4. As evidenced by Findings of Fact No. 2.c, the Respondent failed to collect at least five routine distribution coliform samples following a total coliform positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Three Thousand Eight Dollars (\$3,008) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Three Thousand Eight Dollar (\$3,008) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Eight Dollars (\$3,008) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Cherokee Independent School District, Docket No. 2008-1731-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/24/2009

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Cherokee Independent School District. I am authorized to agree to the attached Agreed Order on behalf of Cherokee Independent School District, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Cherokee Independent School District waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

2-3-09

Date

Chris Perry

Name (Printed or typed)
Authorized Representative of
Cherokee Independent School District

Supt.

Title

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