

Executive Summary – Enforcement Matter – Case No. 39446
City of Omaha
RN101919934
Docket No. 2010-0534-MWD-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
MWD

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
Approximately 2,800 feet southwest of the intersection of the U.S. Hwy 67 and U.S. Hwy. 259, Morris County

Type of Operation:
Wastewater treatment facility

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: March 4, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$ 9,020

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$9,020

Name of SEP: *Caddo Lake Watershed Enhanced Monitoring Program – Cypress River Basin*

Compliance History Classifications:

Person/CN – Average

Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

City of Omaha

RN101919934

Docket No. 2010-0534-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 1, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): March 20, 2010

Violation Information

1. Failed to comply with permitted effluent limits for Ammonia Nitrogen (“NH₃-N”) Daily Average Loading Limit, NH₃-N Daily Average Concentrations, Total Suspended Solids (“TSS”) Daily Average Concentrations, and 5-day Carbonaceous Biochemical Oxygen Demand (“CBOD”) Daily Average Concentrations for November 2009 [30 TEX. ADMIN. CODE § 305.125(1); TEX. WATER CODE § 26.121(a)(1); and TPDES Permit No. WQ0010239001, Final Effluent Limitations and Monitoring Requirements No. 1].
2. Failed to comply with permitted effluent limits for NH₃-N Daily Average Concentrations for October 2009, TSS Daily Average Concentrations for February and October 2009, TSS Daily Average Loading Limit for October 2009, and TSS Single Grab Maximum Limit for October 2009 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1); TPDES Permit No. WQ0010239001, Final Effluent Limitations and Monitoring Requirements No. 1].
3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2009, by September 1, 2009 [30 TEX. ADMIN. CODE § 305.125(7) and TPDES Permit No. WQ0010239001, Sludge Provisions].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

N/A

Technical Requirements:

1. Within 30 days, submit the annual sludge report for the monitoring period ending July 31, 2009.
2. Within 45 days, submit written certification demonstrating compliance with Technical Requirement No. 1.
3. Within 90 days, submit written certification of compliance with the effluent limits of the TPDES Permit, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: July 23, 2010
Date Answer(s) Filed: July 29, 2010
SOAH Referral Date: September 16, 2010

City of Omaha

RN101919934

Docket No. 2010-0534-MWD-E

Hearing Date(s):

Preliminary hearing: November 18, 2010 (waived)

Evidentiary hearing: February 17, 2011

Settlement Date: February 8, 2011

Contact Information

TCEQ Attorneys: Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-3400

Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ SEP Coordinator: Sharon Blue, Litigation Division, MC 175, (512) 239-2223

TCEQ Enforcement Coordinator: Lanae Foard, Water Enforcement Section, MC 169,
(512) 239- 2554

TCEQ Regional Contact: Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5100

Respondent: The Honorable Janey Blackburn, Mayor, City of Omaha, P.O. Box 937, Omaha, Texas
75571

Respondent's Attorney: James L. Clark, Attorney, City of Omaha, P.O. Box 310, Naples, Texas
75568

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Attachment A
Docket Number: 2010-0534-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Omaha
Penalty Amount:	Nine Thousand Twenty Dollars (\$9,020)
SEP Offset Amount:	Nine Thousand Twenty Dollars (\$9,020)
Type of SEP:	Pre-approved
Third-Party Recipient:	Caddo Lake Institute Texas, Inc.
Project Name:	Caddo Lake Watershed Enhanced Monitoring Program
Location of SEP:	Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, and Hopkins Counties; Cypress River Basin

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the Administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Caddo Lake Institute Texas, Inc.** to be used for the *Caddo Lake Watershed Enhanced Monitoring Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to fund increased water quality monitoring and contaminant sampling for use in evaluating risks to water in Caddo Lake and other water bodies in the Cypress Creek basin, comprising the Caddo Lake watershed. This Project will supplement and enhance existing monitoring and contaminant sampling within the Cypress Creek basin. Depending upon the amount of funding available, the SEP Offset Amount may be used to increase the frequency of samples taken and analyzed from existing monitoring sites, expand the types of monitoring done for existing sites, fund monitoring at other locations, or fund other types of environmental sampling for contaminants that enter waters of the State.

Third-Party Recipient shall conduct all monitoring paid for with the SEP Offset Amount under a TCEQ-approved Quality Assurance Project Plan (QAPP). Third-Party Recipient shall ensure that analysis of all data collected complies with state laws and rules regarding use of certified or accredited testing laboratories (e.g., 30 Texas Administrative Code, Chapter 25, relating to Environmental Testing Laboratory Accreditation and Certification, as amended). Within sixty days of collecting data, Third-Party Recipient shall provide that data to TCEQ in a manner acceptable to the agency for use in the Clean Rivers Program. Additionally, Third-Party Recipient shall provide the data to the Northeast Texas Municipal Water District and post the data on its website (<http://www.caddolakeinstitute.us/>).

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

The Caddo Lake wetland ecosystem is a large, shallow, wetland complex located at the bottom of the Cypress Creek watershed in Texas and Louisiana. Composed of one of the largest remaining cypress-tupelo communities in the region, these wetlands exhibit high biodiversity of plants and animals and are an important sports fishery and waterfowl/songbird migratory habitat that is a key link in flyways stretching from South America to the Arctic. The environmental benefit of the project is to provide essential data on pollutants in this critical watershed.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall make one of two semi-annual contributions to the Third-Party Recipient. The first payment of \$4,510 will be followed by one (1) payments of \$4,510 within 365 days of the effective date of the Agreed Order, for a total of \$9,020. The Respondent shall mail a copy of the Final Agreed Order with each contribution to:

Caddo Lake Institute
Attention: Richard Lowerre, President
44 East Avenue, Suite 100
Austin, Texas 78701

3. Records and Reporting

Concurrent with each payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating the payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	15-Mar-2010	Screening	26-Mar-2010	EPA Due	
	PCW	24-Jun-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Omaha
Reg. Ent. Ref. No.	RN101919934
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	39446	No. of Violations	3	
Docket No.	2010-0534-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	Yes	
Multi-Media		Enf. Coordinator	Lanae Foard	
		EC's Team	Enforcement Team 1	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	64.0% Enhancement	Subtotals 2, 3, & 7	\$3,520
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Notes	An enhancement is recommended due to 12 self-reported effluent violations and two unrelated NOVs.
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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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,907	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$15,100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,020
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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	\$9,020
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,020
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$9,020
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Screening Date 26-Mar-2010

Docket No. 2010-0534-MWD-E

PCW

Respondent City of Omaha

Policy Revision 2 (September 2002)

Case ID No. 39446

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101919934

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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)	12	60%
	Other written NOVs	2	4%
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%
<i>Please Enter Yes or No</i>			
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) 64%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended due to 12 self-reported effluent violations and two unrelated NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 64%

Screening Date 26-Mar-2010 **Docket No.** 2010-0534-MWD-E **PCW**
Respondent City of Omaha *Policy Revision 2 (September 2002)*
Case ID No. 39446 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101919934
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text" value="mark with x"/>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

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 City of Omaha
Case ID No. 39446
Reg. Ent. Reference No. RN101919934
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	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	\$15,000	28-Feb-2009	21-Dec-2010	1.81	\$91	\$1,811	\$1,902
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

Estimated cost to replace 1,500 feet of clay pipe to reduce inflow and infiltration. Date required is the first month of noncompliance. Final date is the expected date of compliance.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$1,902

Screening Date 26-Mar-2010 **Docket No.** 2010-0534-MWD-E **PCW**
Respondent City of Omaha *Policy Revision 2 (September 2002)*
Case ID No. 39446 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101919934
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 2
Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010239001, Final Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on March 1, 2010, and as shown in the attached violation table.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	10%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 59 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended for the quarters containing the months of February 2009 and October 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	mark with x)

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

Violation Subtotal \$2,000

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

Estimated EB Amount \$0

Violation Final Penalty Total \$3,280

This violation Final Assessed Penalty (adjusted for limits) \$3,280

Economic Benefit Worksheet

Respondent City of Omaha
Case ID No. 39446
Reg. Ent. Reference No. RN101919934
Media Water Quality
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

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

Economic benefit for this violation is included with Violation No. 1.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 26-Mar-2010 **Docket No.** 2010-0534-MWD-E **PCW**
Respondent City of Omaha *Policy Revision 2 (September 2002)*
Case ID No. 39446 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101919934
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number 3
Rule Cite(s) 30 Tex. Admin Code § 305.125(17) and TPDES Permit No. WQ0010239001, Sludge Provisions
Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2009, by September 1, 2009, as documented during a record review conducted on March 1, 2010.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of permit requirement was not met.					
Adjustment					\$9,000

Adjustment \$9,000 **Final Penalty** \$1,000

Violation Events

Number of Violation Events 1 Number of violation days 206
 mark only one with an x
 daily
 weekly
 mon hly
 quarterly
 semiannual
 annual
 single event
Violation Base Penalty \$1,000
 One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	mark with x
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal \$1,000		

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

Estimated EB Amount \$6 **Violation Final Penalty Total** \$1,640
This violation Final Assessed Penalty (adjusted for limits) \$1,640

Economic Benefit Worksheet

Respondent City of Omaha
Case ID No. 39446
Reg. Ent. Reference No. RN101919934
Media Water Quality
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	\$100	1-Sep-2009	22-Oct-2010	1.14	\$6	n/a	\$6
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

Estimated amount required to submit the annual sludge report to the TCEQ. Date required is the date the report was due. Final date is the expected date of compliance.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

EFFLUENT VIOLATION TABLE			
Permitted Effluent Limits	Monitoring Period End Date		
	2/28/09	10/31/09	11/30/09
NH₃-N daily avg. loading Limit = 5 lbs/day	c	c	6.460
NH₃-N daily avg. conc. Limit = 3 mg/L	c	3.220	6.700
TSS daily avg. conc. Limit = 15 mg/L	19.375	34.260	21.310
TSS daily avg. loading Limit = 25 lbs/day	c	32.000	c
TSS single grab max. Limit = 60 mg/L	c	66.000	c
CBOD daily avg. conc. Limit = 10 mg/L	c	c	13.670

NH₃-N = ammonia nitrogen
TSS = total suspended solids
CBOD = carbonaceous
biochemical oxygen demand
c = compliant
conc. = concentration

mg/L = milligrams per
liter
lbs/day = pounds per
day
avg. = average
max. = maximum

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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600647416	City of Omaha	Classification: AVERAGE	Rating: 0.69
Regulated Entity:	RN101919934	CITY OF OMAHA	Classification: AVERAGE	Site Rating: 0.69
ID Number(s):	WASTEWATER	PERMIT	WQ0010239001	
	WASTEWATER	PERMIT	TPDES0071633	
	WASTEWATER	PERMIT	TX0071633	
	WASTEWATER LICENS NG	LICENSE	WQ0010239001	
Location:	Approximately 2,800 feet southwest of the intersection of U.S. Highways 67 and 259 in Morris County, Texas.			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	March 26, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 26, 2005 to March 26, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Lanae Foard		Phone:	512-239-2554

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

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	04/14/2005	(444447)
2	05/16/2005	(444448)
3	06/16/2005	(444449)
4	07/14/2005	(444450)
5	08/17/2005	(444451)
6	09/15/2005	(444452)
7	10/24/2005	(475074)
8	11/21/2005	(475075)
9	12/27/2005	(475076)
10	01/17/2006	(475077)
11	02/17/2006	(454284)
12	02/23/2006	(475072)
13	03/23/2006	(475073)
14	04/20/2006	(502658)
15	05/15/2006	(502659)
16	06/19/2006	(502660)
17	07/13/2006	(524983)
18	08/21/2006	(524984)
19	09/21/2006	(524985)
20	10/18/2006	(549853)
21	11/20/2006	(549854)
22	12/15/2006	(549855)
23	01/18/2007	(584213)
24	02/16/2007	(584208)
25	03/19/2007	(584209)
26	04/18/2007	(584210)
27	05/23/2007	(584211)
28	05/25/2007	(561716)
29	06/20/2007	(584212)
30	07/20/2007	(608465)
31	08/24/2007	(608466)

32 09/24/2007 (608467)
 33 10/24/2007 (623144)
 34 11/26/2007 (623145)
 35 12/12/2007 (623146)
 36 01/24/2008 (674533)
 37 01/31/2008 (674531)
 38 03/20/2008 (674532)
 39 04/23/2008 (692869)
 40 05/16/2008 (692870)
 41 06/19/2008 (714038)
 42 07/14/2008 (714039)
 43 08/18/2008 (714040)
 44 09/22/2008 (714041)
 45 10/20/2008 (730067)
 46 11/12/2008 (730068)
 47 12/17/2008 (730069)
 48 01/23/2009 (753246)
 49 02/13/2009 (753245)
 50 02/25/2009 (735764)
 51 03/23/2009 (770763)
 52 03/31/2009 (740796)
 53 04/23/2009 (770764)
 54 05/26/2009 (770765)
 55 09/23/2009 (765592)
 56 03/12/2010 (794142)

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

Date: 03/31/2005 (444447) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2005 (444448) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2005 (444449) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2005 (444450) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2005 (444451) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2005 (475074) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2005 (475076) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/11/2006 (454284) CN600647416
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Operational Requirements, Prov. No. 1 PERMIT
 Description: Failure to properly operate wastewater treatment plant.
 Date: 04/30/2006 (502659) CN600647416
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2007 (623144) CN600647416

Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2007 (623145)	CN600647416	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2007 (623146)	CN600647416	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/27/2009 (735764)	CN600647416	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125 TPDES WQ0010239001 PERMIT		
Description:	Failure to maintain facility.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125 TPDES WQ0010239001 PERMIT		
Description:	Failure to properly manage sludge inventory. During the investigation the SV30's for this facility was 950 ml. Additionally, the clarifier had a sludge depth approximately 2/3 the depth of the clarifier. The operator stated that due to the small size of the sludge drying beds, he was unable to dry sludge fast enough in order to waste more from the plant.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5)		
Description:	Failure to have an alternative power source at the facility. According to the TPDES Wastewater permit WQ0010239001, Operational Requirements, 4, page 10: the permittee is responsible for installing prior to plant start-up, and subsequently maintaining, adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to measure influent in an approved manner. The facility did not have a properly installed staff gauge. According to 30 TAC §319.11.d., flow measurements, equipment, installation, and procedures shall conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director.		
Date:	02/28/2009 (770763)	CN600647416	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF OMAHA;
RN101919934**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-0534-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding City of Omaha ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by James L. Clark, Attorney at Law, appear before the Commission and together stipulate that:

1. Respondent owns and operates a wastewater treatment facility located approximately 2,800 feet southwest of the intersection of U.S. Hwy 67 and U.S. Hwy. 259 in Morris County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of nine thousand twenty dollars (\$9,020.00) is assessed by the Commission in settlement of the violations alleged in Section II. Pursuant to TEX. WATER CODE § 7.067, nine thousand twenty dollars (\$9,020.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and

satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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.

II. ALLEGATIONS

1. During a record review conducted on March 1, 2010, a TCEQ Central Office investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE § 305.125(1); TEX. WATER CODE § 26.121(a)(1); and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010239001, Final Effluent Limitations and Monitoring Requirements No. 1, by failing to comply with permitted effluent limits for Ammonia Nitrogen ("NH₃-N") Daily Average Loading Limit, NH₃-N Daily Average Concentrations, Total Suspended Solids ("TSS") Daily Average Concentrations, and 5-day Carbonaceous Biochemical Oxygen Demand ("CBOD") Daily Average Concentrations for November 2009;
 - b. 30 TEX. ADMIN. CODE § 305.125(1); TEX. WATER CODE § 26.121(a)(1); and TPDES Permit No. WQ0010239001, Final Effluent Limitations and Monitoring Requirements No. 1, by failing to comply with permitted effluent limits for NH₃-N Daily Average Concentrations for October 2009, TSS Daily Average Concentrations for February and October 2009, TSS Daily Average Loading

Limit for October 2009, and TSS Single Grab Maximum Limit for October 2009; and

- c. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010239001, Sludge Provisions, by failing to submit the annual sludge report for the monitoring period ending July 31, 2009, by September 1, 2009.
2. Respondent received notice of the violations on or about March 17, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. Respondent shall implement and complete a SEP as set forth in Section I, Paragraph No. 5, above. The amount of nine thousand twenty dollars (\$9,020.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative 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. Checks shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Omaha, Docket No. 2010-0534-WQ-E" to:

Litigation Division
Texas Commission on Environmental Quality
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall submit the annual sludge report for the monitoring period ending July 31, 2009, in accordance with the requirements of 30 TEX. ADMIN CODE § 305.125(17) and TPDES Permit No. WQ0010239001, Sludge Provisions (Allegation 1.c.).
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification of compliance with Ordering Provision No. 3.a., in accordance with Ordering Provision No. 3.d. below.
 - c. Within 90 days after the effective date of this Agreed Order, Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010239001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most

current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations in accordance with Ordering Provision No. 3.d. below (Allegations 1.a. and 1.b.).

- d. The certification required by Ordering Provision Nos. 3.b. and 3.c. shall be notarized by a State of Texas Notary Public and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and

Noel Luper, Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

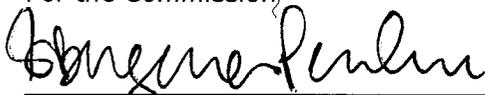
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission)



For the Executive Director

5/20/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the City of Omaha, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Janet Blackburn, Mayor
City of Omaha

8 Feb 2011

Date

Attachment A
Docket Number: 2010-0534-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Omaha
Penalty Amount:	Nine Thousand Twenty Dollars (\$9,020)
SEP Offset Amount:	Nine Thousand Twenty Dollars (\$9,020)
Type of SEP:	Pre-approved
Third-Party Recipient:	Caddo Lake Institute Texas, Inc.
Project Name:	Caddo Lake Watershed Enhanced Monitoring Program
Location of SEP:	Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, and Hopkins Counties; Cypress River Basin

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the Administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Caddo Lake Institute Texas, Inc.** to be used for the *Caddo Lake Watershed Enhanced Monitoring Program* as set forth in an agreement between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to fund increased water quality monitoring and contaminant sampling for use in evaluating risks to water in Caddo Lake and other water bodies in the Cypress Creek basin, comprising the Caddo Lake watershed. This Project will supplement and enhance existing monitoring and contaminant sampling within the Cypress Creek basin. Depending upon the amount of funding available, the SEP Offset Amount may be used to increase the frequency of samples taken and analyzed from existing monitoring sites, expand the types of monitoring done for existing sites, fund monitoring at other locations, or fund other types of environmental sampling for contaminants that enter waters of the State.

Third-Party Recipient shall conduct all monitoring paid for with the SEP Offset Amount under a TCEQ-approved Quality Assurance Project Plan (QAPP). Third-Party Recipient shall ensure that analysis of all data collected complies with state laws and rules regarding use of certified or accredited testing laboratories (e.g., 30 Texas Administrative Code, Chapter 25, relating to Environmental Testing Laboratory Accreditation and Certification, as amended). Within sixty days of collecting data, Third-Party Recipient shall provide that data to TCEQ in a manner acceptable to the agency for use in the Clean Rivers Program. Additionally, Third-Party Recipient shall provide the data to the Northeast Texas Municipal Water District and post the data on its website (<http://www.caddolakeinstitute.us/>).

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

The Caddo Lake wetland ecosystem is a large, shallow, wetland complex located at the bottom of the Cypress Creek watershed in Texas and Louisiana. Composed of one of the largest remaining cypress-tupelo communities in the region, these wetlands exhibit high biodiversity of plants and animals and are an important sports fishery and waterfowl/songbird migratory habitat that is a key link in flyways stretching from South America to the Arctic. The environmental benefit of the project is to provide essential data on pollutants in this critical watershed.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall make one of two semi-annual contributions to the Third-Party Recipient. The first payment of \$4,510 will be followed by one (1) payments of \$4,510 within 365 days of the effective date of the Agreed Order, for a total of \$9,020. The Respondent shall mail a copy of the Final Agreed Order with each contribution to:

Caddo Lake Institute
Attention: Richard Lowerre, President
44 East Avenue, Suite 100
Austin, Texas 78701

3. Records and Reporting

Concurrent with each payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating the payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.