

**Executive Summary – Enforcement Matter – Case No. 41423**

**City of Tatum**

**RN101918407**

**Docket No. 2011-0528-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Tatum, located approximately 4,000 feet southwest of the intersection of State Highway 43 and State Highway 149, Rusk County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 8, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,120

**Amount Deferred for Expedited Settlement:** \$2,224

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$8,896

Name of SEP: Caddo Lake Institute – Caddo Lake Watershed Enhanced Monitoring Program

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41423**

**City of Tatum**

**RN101918407**

**Docket No. 2011-0528-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** March 17, 2011

**Date(s) of NOE(s):** March 25, 2011

***Violation Information***

Failed to comply with permit effluent limits for total suspended solids, pH, ammonia nitrogen, and 5-day carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010850001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to, within 90 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

**TCEQ SEP Coordinator:** Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

**Respondent:** The Honorable Phil Cory, Mayor, City of Tatum, P.O. Box 1105, Tatum, Texas 75691

**Respondent's Attorney:** N/A

**Attachment A**  
**Docket Number: 2011-0528-MWD -E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Tatum

**Penalty Amount:** Eight Thousand Eight Hundred Ninety-Six Dollars (\$8,896)

**SEP Offset Amount:** Eight Thousand Eight Hundred Ninety-Six Dollars (\$8,896)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Caddo Lake Institute

**Project Name:** Caddo Lake Watershed Enhanced Monitoring Program

**Location of SEP:** Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, and Hopkins Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the 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 (CLI) for the *Caddo Lake Watershed Enhanced Monitoring Program* to be used as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used for 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, SEP funds 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.

City of Tatum  
Agreed Order - Attachment A

All monitoring paid for with SEP funds will be conducted under a TCEQ-approved Quality Assurance Project Plan (QAPP). Analysis of all data collected will comply 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). Additionally, the data will be posted on the following website: <http://www.caddolakeinstitute.us/>. This SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that it has 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 contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Caddo Lake Institute  
44 East Avenue, Suite 100  
Austin, TX 78701

**3. Records and Reporting**

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

City of Tatum  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
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 Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, 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 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.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	4-Apr-2011	<b>Screening</b>	4-Apr-2011	<b>EPA Due</b>	
	<b>PCW</b>	5-Apr-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Tatum
<b>Reg. Ent. Ref. No.</b>	RN101918407
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	41423	<b>Order Type</b>	1660
<b>Docket No.</b>	2011-0528-MWD-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Merrilee Hupp
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$4,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **188.0%** Enhancement **Subtotals 2, 3, & 7** **\$7,520**

Notes: Enhancement for 28 months of self-reported effluent violations, two NOVs with same/similar violations, nine NOVs with dissimilar violations, and one order with denial of liability.

**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** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts **\$919**  
 Approx. Cost of Compliance **\$10,000**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$11,520**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **-3.5%** **Adjustment** **-\$400**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that self-reported violations do not overly impact the penalty amount.

**Final Penalty Amount** **\$11,120**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$11,120**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$2,224**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$8,896**

Screening Date 4-Apr-2011

Docket No. 2011-0528-MWD-E

PCW

Respondent City of Tatum

Policy Revision 2 (September 2002)

Case ID No. 41423

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918407

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	30	150%
	Other written NOVs	9	18%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

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)** 188%

>> 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

Enhancement for 28 months of self-reported effluent violations, two NOVs with same/similar violations, nine NOVs with dissimilar violations, and one order with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 188%

**Screening Date** 4-Apr-2011  
**Respondent** City of Tatum  
**Case ID No.** 41423  
**Reg. Ent. Reference No.** RN101918407  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Merrilee Hupp  
**Violation Number** 1

**Docket No.** 2011-0528-MWD-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010850001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

**Violation Description** Failed to comply with permit effluent limits, as documented during a record review conducted on March 17, 2011 and shown in the attached effluent 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

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty** \$4,000

Four quarterly events are recommended.

**Good Faith Efforts to Comply**

Reduction

\$0

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

Notes

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

**Violation Subtotal** \$4,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$919

**Violation Final Penalty Total** \$11,120

**This violation Final Assessed Penalty (adjusted for limits)** \$11,120

# Economic Benefit Worksheet

**Respondent** City of Tatum  
**Case ID No.** 41423  
**Req. Ent. Reference No.** RN101918407  
**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				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)	\$10,000	28-Feb-2010	31-Dec-2011	1.84	\$919	n/a	\$919

#### Notes for DELAYED costs

Estimated cost for an assessment to determine the cause of the effluent violations and the corrective action to be taken to resolve them. Date required is the first noncompliant month and the final date is the date compliance is expected to be achieved.

### 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

\$10,000

**TOTAL**

\$919

Respondent: City of Tatum  
 TPDES Permit No. WQ0010850001  
 Docket No. 2011-0528-MWD-E

Effluent Violation Table

<i>Effluent Parameter</i>	<i>Monitoring Period End Date</i>						
	February 2010	June 2010	August 2010	September 2010	October 2010	November 2010	December 2010
	Reported Value						
TSS Daily Avg. Conc. Permit Limit = 90 mg/L	c	100	c	119	135	103	92.6
CBOD <sub>5</sub> Daily Avg. Conc. Permit Limit = 30 mg/L	c	c	30.6	47.8	32.4	c	c
NH <sub>3</sub> -N Daily Avg. Conc. Permit Limit = 5.0 mg/L	6.4	c	c	c	c	c	c
pH Max. Permit Max. = 9.0 s.u.	c	9.3	c	c	c	c	c

c: compliant    TSS: total suspended solids    mg/L: milligrams per liter    s.u.: standard units    Avg.: average  
 NH<sub>3</sub>-N: ammonia-nitrogen    CBOD<sub>5</sub>: 5-day carbonaceous biochemical oxygen demand    conc.: concentration

# Compliance History

Customer/Respondent/Owner-Operator: CN600689624 City of Tatum Classification: AVERAGE Rating: 2.41  
Regulated Entity: RN101918407 CITY OF TATUM Classification: AVERAGE Site Rating: 1.82  
ID Number(s): WASTEWATER PERMIT WQ0010850001  
WASTEWATER EPA ID TX0022551  
WASTEWATER LICENSING LICENSE WQ0010850001  
Location: APPROX. 4,000 FT. SW OF INTERSEC. OF SH 43 AND SH 149, RUSK CO., TEXAS  
TCEQ Region: REGION 05 - TYLER  
Date Compliance History Prepared: April 05, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: April 05, 2006 to April 05, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Merrilee G. Hupp Phone: (512) 239-4490

## 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: 9/1/2010 Repeat Violator: NO

## Components (Multimedia) for the Site :

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

Effective Date: 09/26/2010 ADMINORDER 2009-1986-MWD-E  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

### Rqmt Prov Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)  
30 TAC Chapter 319, SubChapter A 319.1

### Rqmt Prov Effluent Reporting Requirements PERMIT

Description: Failure to submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

### Rqmt Prov Sludge Reporting Requirements PERMIT

Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- 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.)

		(481478)
1	06/06/2006	
2	06/19/2006	(498973)
3	06/19/2006	(498974)
4	07/22/2008	(517499)
5	06/15/2006	(521012)
6	07/13/2006	(521013)
7	10/09/2006	(521014)
8	09/12/2006	(521015)
9	09/19/2006	(530979)
10	10/27/2006	(545488)
11	12/15/2006	(545489)
12	12/22/2006	(545490)
13	06/01/2007	(577028)
14	06/06/2007	(577029)
15	06/06/2007	(577030)
16	06/06/2007	(577031)
17	07/13/2007	(577032)
18	02/08/2007	(577033)
19	05/09/2007	(593204)
20	06/22/2007	(593205)
21	10/29/2007	(607796)
22	09/25/2007	(608621)
23	11/05/2007	(620102)
24	11/05/2007	(620103)
25	11/19/2007	(620104)
26	04/29/2008	(637558)
27	02/21/2008	(672516)
28	04/07/2008	(672517)
29	04/03/2008	(672518)
30	04/03/2008	(672519)
31	03/20/2008	(679807)
32	09/02/2008	(686453)
33	07/29/2008	(687881)
34	04/07/2008	(690471)
35	05/19/2008	(690472)
36	08/09/2008	(711315)
37	08/09/2008	(711316)
38	08/09/2008	(711317)
39	08/08/2008	(720828)
40	10/29/2008	(720829)
41	11/20/2008	(727894)
42	11/20/2008	(727895)
43	06/01/2009	(747217)
44	02/09/2009	(750795)
45	02/09/2009	(750796)
46	02/12/2009	(750797)
47	02/03/2009	(758958)
48	04/03/2009	(758959)

49 03/19/2009 (768768)  
 50 12/01/2009 (776685)  
 51 07/06/2009 (806016)  
 52 03/29/2010 (806017)  
 53 07/06/2009 (806018)  
 54 07/06/2009 (806019)  
 55 07/06/2009 (806020)  
 56 07/15/2009 (806021)  
 57 09/11/2009 (806022)  
 58 12/07/2009 (806023)  
 59 09/22/2009 (806024)  
 60 12/07/2009 (806025)  
 61 12/07/2009 (806026)  
 62 12/28/2009 (806027)  
 63 01/20/2010 (806028)  
 64 07/27/2010 (828107)  
 65 05/28/2010 (831357)  
 66 05/14/2010 (845088)  
 67 05/14/2010 (845089)  
 68 10/21/2010 (874055)  
 69 09/15/2010 (888175)  
 70 09/15/2010 (888176)  
 71 09/15/2010 (888177)  
 72 02/07/2011 (902464)  
 73 02/07/2011 (902465)  
 74 02/07/2011 (902466)  
 75 02/07/2011 (902467)  
 76 03/28/2011 (906491)

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

Date: 06/30/2006 (521013) CN600689624  
 Self 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: 09/19/2006 (530979) CN600689624  
 Self NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Date: 11/30/2006 (545490) CN600689624  
 Self 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: 12/31/2006 (577033) CN600689624  
 Self 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: 01/31/2007 (577028) CN600689624  
 Self YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: TWC Chapter 26 26.121(a)  
 Failure to meet the limit for one or more permit parameter  
 Date 02/28/2007 (577029) CN600689624  
 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 03/31/2007 (577030) CN600689624  
 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 04/30/2007 (577031) CN600689624  
 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 05/09/2007 (593204) CN600689624  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Date 05/31/2007 (577032) CN600689624  
 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 06/22/2007 (593205) CN600689624  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Date 06/30/2007 (607796) CN600689624  
 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 07/31/2007 (620102) CN600689624  
 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 08/31/2007 (620103) CN600689624  
 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 09/25/2007 (608621) CN600689624  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(17)  
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
 Date 09/30/2007 (620104) CN600689624  
 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 (672517) CN600689624  
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 (672518) CN600689624  
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 03/20/2008 (679807) CN600689624  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
Date 05/06/2008 (637558) CN600689624  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(b)(4)  
Description: Failure to properly dispose of screenings that are collected at the bar screen.  
Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
2D TWC Chapter 26, SubChapter A 26.121(b)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
2D TWC Chapter 26, SubChapter A 26.121(d)  
2D TWC Chapter 26, SubChapter A 26.121(e)  
30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)(2)  
Description: Failure to prevent an unauthorized discharge of sewage from the collection system. During the investigation an unauthorized discharge was observed at the Eagle Ridge lift station. Raw sewage was overflowing from the lift station, entering the adjacent drainage ditch, and then flowing into a nearby creek.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
Description: Failure to report an unauthorized discharge from the collection system. During the March 18, 2008 compliance investigation, raw sewage was observed overflowing from the Eagle Ridge Lift Station. The raw sewage flowed into the adjacent drainage ditch, and then entered a nearby creek. In accordance with 30 TAC 305.125 (9) any noncompliance which may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to met the permit effluent limitations for pH of 6 to 9 standard units.  
Date 08/08/2008 (720828) CN600689624  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(17)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
Date 08/31/2008 (727895) CN600689624  
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	10/29/2008	(720829)	CN600689624	
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date	01/31/2009	(806016)	CN600689624	
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	02/03/2009	(758958)	CN600689624	
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date	02/28/2009	(806018)	CN600689624	
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	03/31/2009	(806019)	CN600689624	
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	04/03/2009	(758959)	CN600689624	
Self Report?	NO			Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)			
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE			
Date	04/30/2009	(806020)	CN600689624	
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	05/29/2009	(747217)	CN600689624	
Self Report?	NO			Classification: Moderate
Citation:	TWC Chapter 26 26.121			
Description:	Failure to prevent an unauthorized discharge of sewage from the collection system. During the May 14, 2009 complaint investigation raw sewage was observed overflowing from a manhole located on Harmony Hill Road and entering Tatum Creek.			
Date	06/30/2009	(806022)	CN600689624	
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	07/31/2009	(806023)	CN600689624	
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	02/28/2010	(845088)	CN600689624	
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 06/30/2010 (888176) CN600689624  
 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 08/31/2010 (874055) CN600689624  
 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 09/30/2010 (902464) CN600689624  
 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 10/31/2010 (902465) CN600689624  
 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 11/30/2010 (902466) CN600689624  
 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 12/31/2010 (902467) CN600689624  
 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF TATUM  
RN101918407**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0528-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Tatum ("the Respondent") under the authority of Tex. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 4,000 feet southwest of the intersection of State Highway 43 and State Highway 149 in Rusk County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 30, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eleven Thousand One Hundred Twenty Dollars (\$11,120) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Two Hundred Twenty-Four Dollars (\$2,224) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eight Thousand Eight Hundred Ninety-Six Dollars (\$8,896) will be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. 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.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010850001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on March 17, 2011 and shown in the following table:

Effluent Parameter	Monitoring Period End Date						
	February 2010	June 2010	August 2010	September 2010	October 2010	November 2010	December 2010
	Reported Value						
TSS Daily Avg. Conc. Permit Limit = 90 mg/L	c	100	c	119	135	103	92.6
CBOD <sub>5</sub> Daily Avg. Conc. Permit Limit = 30 mg/L	c	c	30.6	47.8	32.4	c	c
NH <sub>3</sub> -N Daily Avg. Conc. Permit Limit = 5.0 mg/L	6.4	c	c	c	c	c	c
pH Max. Permit Max. = 9.0 s.u.	c	9.3	c	c	c	c	c

c: compliant    TSS: total suspended solids    mg/L: milligrams per liter    s.u.: standard units    Avg.: average  
NH<sub>3</sub>-N: ammonia-nitrogen    CBOD<sub>5</sub>: 5-day carbonaceous biochemical oxygen demand    conc.: concentration

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Tatum, Docket No. 2011-0528-MWD-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Eight Thousand Eight Hundred Ninety-Six Dollars (\$8,896) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010850001, 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. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

4. 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.
5. If the 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
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. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Tatum  
DOCKET NO. 2011-0528-MWD-E  
Page 6

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*John Zedler*  
For the Executive Director

7/13/2011  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

*Phil Cory*  
Signature

June 14, 2011  
Date

Phil Cory  
Name (Printed or typed)  
Authorized Representative of  
City of Tatum

Mayor  
Title

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

**Attachment A**  
**Docket Number: 2011-0528-MWD -E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Tatum

**Penalty Amount:** Eight Thousand Eight Hundred Ninety-Six Dollars (\$8,896)

**SEP Offset Amount:** Eight Thousand Eight Hundred Ninety-Six Dollars (\$8,896)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Caddo Lake Institute

**Project Name:** Caddo Lake Watershed Enhanced Monitoring Program

**Location of SEP:** Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, and Hopkins Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the 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 (CLI) for the *Caddo Lake Watershed Enhanced Monitoring Program* to be used as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will be used for 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, SEP funds 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.

All monitoring paid for with SEP funds will be conducted under a TCEQ-approved Quality Assurance Project Plan (QAPP). Analysis of all data collected will comply 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). Additionally, the data will be posted on the following website: <http://www.caddolakeinstitute.us/>. This SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that it has 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 contribute the SEP offset amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Caddo Lake Institute  
44 East Avenue, Suite 100  
Austin, TX 78701

**3. Records and Reporting**

Concurrent with the payment of the SEP offset amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP offset amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

City of Tatum  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
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 Section 3 above, the Executive Director may require immediate payment of all or part of the SEP offset amount.

In the event of incomplete performance, Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, 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 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.