

**Executive Summary – Enforcement Matter – Case No. 41336
West Wise Special Utility District
RN101190270
Docket No. 2011-0438-WQ-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

West Wise Rural WSC Water Plant, Farm-to-Market Road 1658, Wise County

Type of Operation:

Surface water treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 22, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$4,200

Amount Deferred for Expedited Settlement: \$840

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: \$3,360 (6 payments of \$560 each)

Name of SEP: Caddo Lake Watershed Enhanced Monitoring Program

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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RN101190270
Docket No. 2011-0438-WQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 27, 2011

Date(s) of NOE(s): February 28, 2011

Violation Information

Failed to prevent an unauthorized discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state. Specifically, at the time of the record review, it was documented during an onsite investigation conducted on April 19, 2010, waste from the surface water treatment plant's backwash reclaim tank was observed, heard, and documented overflowing and draining down the slope of the Facility property toward a tributary of Lake Bridgeport without authorization [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. Submitted an initial application for a permit to discharge wastewater on February 25, 2011; and
- b. The application was declared administratively complete on April 4, 2011.

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:
 - a. Immediately, cease all unauthorized discharges;
 - b. Within 15 days, submit written certification as described in Ordering Provision d. and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.;
 - c. Within 180 days, maintain the Facility's backwash reclaim tank to prevent water from overflowing from the tank or obtain a permit to discharge wastewater from the Facility's backwash reclaim tank; and

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d. Within 195 days, submit written certification demonstrate compliance with Ordering Provision c.

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: Michaelle Sherlock, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4076; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

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

Respondent: Betty J. Graves, President, West Wise Special Utility District, P.O. Box
566, Bridgeport, Texas 76426-0566

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0438-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	West Wise Special Utility District
Penalty Amount:	Three Thousand Three Hundred Sixty Dollars (\$3,360)
SEP Offset Amount:	Three Thousand Three Hundred Sixty Dollars (\$3,360)
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 (preference for Wise County)

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.

West Wise Special Utility District
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:

West Wise Special Utility District
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

DATES	Assigned	7-Mar-2011	Screening	21-Mar-2011	EPA Due	
	PCW	21-Mar-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	West Wise Special Utility District		
Reg. Ent. Ref. No.	RN101190270		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41336	No. of Violations	1
Docket No.	2011-0438-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michaelle Sherlock
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$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 **5.0%** Enhancement *Subtotals 2, 3, & 7* **\$200**

Notes: Enhancement for one same/similar NOV.

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: \$47
Approx. Cost of Compliance: \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$4,200**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$4,200**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$4,200**

DEFERRAL **20.0%** Reduction *Adjustment* **-\$840**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$3,360**

Screening Date 21-Mar-2011

Docket No. 2011-0438-WQ-E

PCW

Respondent West Wise Special Utility District

Policy Revision 2 (September 2002)

Case ID No. 41336

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101190270

Media [Statute] Water Quality

Enf. Coordinator Michaelle Sherlock

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one same/similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 21-Mar-2011

Docket No. 2011-0438-WQ-E

PCW

Respondent West Wise Special Utility District

Policy Revision 2 (September 2002)

Case ID No. 41336

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101190270

Media [Statute] Water Quality

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent an unauthorized discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state. Specifically, at the time of the record review, it was documented during an onsite investigation conducted on April 19, 2010, waste from the Facility's backwash reclaim tank was observed, heard, and documented overflowing and draining down the slope of the plant property toward a tributary of Lake Bridgeport without authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

The unauthorized discharge from the Facility's surface water treatment process has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

336 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended from the investigation date when the discharge was observed, April 19, 2010, to the screening date, March 21, 2011.

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 \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$47

Violation Final Penalty Total \$4,200

This violation Final Assessed Penalty (adjusted for limits) \$4,200

Economic Benefit Worksheet

Respondent West Wise Special Utility District
Case ID No. 41336
Req. Ent. Reference No. RN101190270
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)	\$500	19-Apr-2010	1-Mar-2012	1.87	\$47	n/a	\$47

Notes for DELAYED costs

The delayed cost includes the estimated amount to cease the unauthorized discharge from the backwash reclaim tank or obtain a discharge permit, calculated from the date of the investigation when the violation was first observed to the estimated 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

\$500

TOTAL

\$47

Compliance History

Customer/Respondent/Owner-Operator: CN601654254 West Wise Special Utility District Classification: Rating:
Regulated Entity: RN101190270 WEST WISE RURAL WSC WATER PLANT Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2490016
WATER LICENSING LICENSE 2490016
Location: FM 1658, WISE COUNTY, TEXAS
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: March 08, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 08, 2006 to March 08, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michaelle Sherlock Phone: (210) 403-4076

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

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, 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 | 05/16/2006 | (465677) |
| 2 | 06/05/2007 | (562539) |
| 3 | 07/16/2010 | (803756) |
| 4 | 02/28/2011 | (893485) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|--------------|--|-----------------------|
| Date: | 07/19/2010 | (803756)CN601654254 |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.42(a) | |
| Description: | Failure to calibrate the flow measuring device for treated discharge water. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46 | |
| Description: | Failure to conduct quarterly calibration for the online turbidimeter for 2010. | |
| Self Report? | NO | Classification: Major |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)(1) | |
| Description: | Failure to prevent the unauthorized discharge of municipal waste into and adjacent to waters in the State. | |
- 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
WEST WISE SPECIAL UTILITY
DISTRICT
RN101190270

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

AGREED ORDER DOCKET NO. 2011-0438-WQ-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 West Wise Special Utility District ("the Respondent") under the authority of the 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 surface water treatment plant on Farm-to-Market Road 1658 in Wise 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 March 2, 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 Four Thousand Two Hundred Dollars (\$4,200) is assessed by the Commission in settlement of the violations alleged in Section

- II ("Allegations"). Eight Hundred Forty Dollars (\$840) of the administrative penalty 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. Three Thousand Three Hundred Sixty Dollars (\$3,360) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP") payable in six monthly payments of Five Hundred Sixty Dollars (\$560) each.
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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted an initial application for a permit to discharge wastewater on February 25, 2011; and
 - b. The application was declared administratively complete on April 4, 2011.
 10. 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.
 11. 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.
 12. 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 prevent an unauthorized discharge of sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state, in violation of the TEX. WATER CODE § 26.121(a)(1), as documented during a record review conducted on January 27, 2011. Specifically, at the time of the record review, it was documented during an onsite investigation conducted on April 19, 2010, waste from the surface water treatment plant's backwash reclaim tank was observed, heard, and documented overflowing and draining down the slope of the Facility property toward a tributary of Lake Bridgeport without authorization.

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: West Wise Special Utility District, Docket No. 2011-0438-WQ-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 above, Three Thousand Three Hundred Sixty Dollars (\$3,360) 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 the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges, in accordance with TEX. WATER CODE § 26.121;
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 3.d, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a;
 - c. Within 180 days of the effective date of this Agreed Order, maintain the Facility's backwash reclaim tank to prevent water from overflowing from the tank or obtain a permit to discharge wastewater from the Facility's backwash reclaim tank; and
 - d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szelen
For the Executive Director

7/31/2011
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.

Betty J. Graves
Signature

6-21-11
Date

BETTY J. GRAVES
Name (Printed or typed)
Authorized Representative of
West Wise Special Utility District

PRESIDENT
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: 2011-0438-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: West Wise Special Utility District
Penalty Amount: Three Thousand Three Hundred Sixty Dollars (\$3,360)
SEP Offset Amount: Three Thousand Three Hundred Sixty Dollars (\$3,360)
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 (preference for Wise County)

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.

West Wise Special Utility District
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:

West Wise Special Utility District
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.