

Executive Summary – Enforcement Matter – Case No. 42457

City of Fort Worth

RN100942259

Docket No. 2011-1595-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Fort Worth Village Creek WWTP, located southeast of the confluence of the West Fork Trinity River with Village Creek, with an associated collection system line located at 2012 East Rosedale Street, Fort Worth, Tarrant County

Type of Operation:

Wastewater treatment facility with an associated collection system line

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 2, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,000

Amount Deferred for Expedited Settlement: \$0

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: \$10,000

Name of SEP: Caddo Lake Watershed Enhanced Monitoring Program

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: \$900

Applicable Penalty Policy: September 2002

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City of Fort Worth
RN100942259
Docket No. 2011-1595-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 11, 2011
Date(s) of NOE(s): August 22, 2011

Violation Information

Failed to prevent the unauthorized discharge of wastewater from a collection system into water in the state. Specifically, on July 11, 2011, a blockage in a sewer line located at 2012 East Rosedale Street caused a backup of sewage which resulted in a discharge of approximately 4,000 gallons of sewage from a nearby manhole. The discharge then traveled into a nearby field to a storm water drain and then entered Sycamore Creek, killing an estimated 857 fish [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010494013, Permit Conditions No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Facility:

- a. On July 11, 2011, impounded the sewer flow, pumped the sewage back into the collection system, and disinfected the area; and
- b. On July 11, 2011, cleared the collection system line blockage and restored service to the line.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)

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

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Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Samuel Short, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-5363; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412.

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565

Respondent: S. Frank Crumb, Water Director, City of Fort Worth, P.O. Box 870, Fort
Worth, Texas 76101

Fernando Costa, Assistant City Manager, City of Fort Worth, P.O. Box 870, Fort Worth,
Texas 76101

Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-1595-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Fort Worth

Penalty Amount: Ten Thousand Dollars (\$10,000)

SEP Offset Amount: Ten Thousand Dollars (\$10,000)

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 the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Caddo Lake Institute 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.

The 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

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

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

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the 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. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219

City of Fort Worth
Agreed Order - Attachment A

P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the 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, the 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
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	29-Aug-2011	Screening	2-Sep-2011	EPA Due	
	PCW	13-Sep-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Fort Worth
Reg. Ent. Ref. No.	RN100942259
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations <input type="text" value="1"/> Order Type <input type="text" value="Findings"/> Government/Non-Profit <input type="text" value="Yes"/> Enf. Coordinator <input type="text" value="Samuel Short"/> EC's Team <input type="text" value="Enforcement Team 3"/>
Enf./Case ID No.	42457	
Docket No.	2011-1595-MWD-E	
Media Program(s)	Water Quality	
Multi-Media		
Admin. Penalty \$	Limit Minimum <input type="text" value="\$0"/> Maximum <input type="text" value="\$10,000"/>	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	143.0% Enhancement	Subtotals 2, 3, & 7 \$7,150

Notes: Enhancement for four NOVs with same/similar violations, four NOVs for dissimilar violations, two orders with denial of liability, two orders without denial of liability, and repeat violator status.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	<input type="text" value="\$0"/>	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	<input type="text" value="\$5,000"/>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$10,900
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$10,000
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Screening Date 2-Sep-2011

Docket No. 2011-1595-MWD-E

PCW

Respondent City of Fort Worth

Policy Revision 2 (September 2002)

Case ID No. 42457

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100942259

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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>)	4	20%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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	2	50%
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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 118%

>> **Repeat Violator (Subtotal 3)**

Yes

Adjustment Percentage (Subtotal 3) 25%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for four NOVs with same/similar violations, four NOVs for dissimilar violations, two orders with denial of liability, two orders without denial of liability, and repeat violator status.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 143%

Screening Date 2-Sep-2011

Docket No. 2011-1595-MWD-E

PCW

Respondent City of Fort Worth

Policy Revision 2 (September 2002)

Case ID No. 42457

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100942259

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010494013, Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharge of wastewater from a collection system into water in the state. Specifically, on July 11, 2011, a blockage in a sewer line located at 2012 East Rosedale Street caused a backup of sewage which resulted in a discharge of approximately 4,000 gallons of sewage from a nearby manhole. The discharge then traveled into a nearby field to a storm water drain and then entered Sycamore Creek, killing an estimated 857 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 1

Table for event frequency: daily (x), weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$5,000

One daily event is recommended from the date the discharge occurred, July 11, 2011, to the date clean up was completed, July 11, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

Table for Good Faith Efforts: Extraordinary, Ordinary (x), N/A.

Notes The Respondent returned to compliance on July 11, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$10,900

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent City of Fort Worth
Case ID No. 42457
Reg. Ent. Reference No. RN100942259
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
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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)	\$5,000	11-Jul-2011	11-Jul-2011	0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to clear the collection system line blockage and clean up the discharge. Date required is the date the discharge occurred and the final date is the date the clean up was completed.

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	\$5,000	TOTAL	\$0
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Compliance History

Customer/Respondent/Owner-Operator: CN600128862 City of Fort Worth Classification: AVERAGE Rating: 3.09

Regulated Entity: RN100942259 CITY OF FORT WORTH VILLAGE CREEK WWTP Classification: AVERAGE Site Rating: 8.41

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	TA0512K
AIR OPERATING PERMITS	PERMIT	1704
AIR NEW SOURCE PERMITS	PERMIT	7553
AIR NEW SOURCE PERMITS	REGISTRATION	46811
AIR NEW SOURCE PERMITS	REGISTRATION	46812
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TA0512K
AIR NEW SOURCE PERMITS	AFS NUM	4843900321
AIR NEW SOURCE PERMITS	REGISTRATION	71648
AIR NEW SOURCE PERMITS	REGISTRATION	96882
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	7527
WASTEWATER	PERMIT	WQ0010494013
WASTEWATER	PERMIT	WQ0010494013
WASTEWATER	EPA ID	TX0047295
PRETREATMENT	PERMIT	WQ0010494013
PRETREATMENT	EPA ID	TX0047295000
WASTEWATER LICENSING	LICENSE	WQ0010494013
STORMWATER	PERMIT	TXR05O332
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	TA0512K

Location: LOCATED SOUTHEAST OF THE CONFLUENCE OF THE WEST FORK TRINITY RIVER WITH VILLAGE CREEK WITH AN ASSOCIATED COLLECTION SYSTEM LINE LOCATED AT 2012 EAST ROSEDALE STREET IN FORT WORTH, TARRANT COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: August 30, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 30, 2006 to August 30, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Samuel Short Phone: (512) 239-5363

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: | | YES |

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: 08/31/2007 ADMINORDER 2007-0387-AIR-E
 Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)
 General Terms and Conditions PERMIT

Description: Failed to timely submit an annual compliance certification no later than 30 days after the end of the certification period

Effective Date: 07/21/2008 ADMINORDER 2008-0149-MWD-E
 Classification: Major
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to prevent an unauthorized discharge that resulted in a fish kill.

Effective Date: 08/09/2010

ADMINORDER 2010-0046-MWD-E

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Permit Conditions No. 2.g. OP

Description: Failure to prevent the unauthorized discharge of raw wastewater into or adjacent to water in the state.

Effective Date: 03/19/2011

ADMINORDER 2010-1334-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1(A) OP

Description: Failure to maintain a daily visible emissions log for the three flares

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 8 OP

Description: Failure to maintain records demonstrating compliance with the periodic monitoring requirements for the cold solvent cleaners

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to report, in writing, to the TCEQ, all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the Title V Permit

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	01/05/2007	(486679)
2	11/30/2006	(497471)
3	10/31/2006	(513817)
4	08/31/2006	(523010)
5	09/21/2006	(523011)
6	01/26/2007	(537657)
7	02/14/2007	(540499)
8	02/28/2007	(540534)
9	03/08/2007	(543267)
10	02/15/2007	(547833)
11	10/20/2006	(547834)
12	11/16/2006	(547835)
13	12/19/2006	(547836)
14	01/22/2007	(547837)
15	03/23/2007	(554850)
16	06/21/2007	(564341)
17	07/24/2007	(568019)
18	03/15/2007	(580655)
19	04/16/2007	(580656)

20	05/17/2007	(580657)
21	06/15/2007	(580658)
22	07/17/2007	(580659)
23	08/14/2007	(603139)
24	09/13/2007	(603140)
25	10/22/2007	(603141)
26	12/05/2007	(610451)
27	12/20/2007	(611731)
28	02/26/2008	(617162)
29	11/16/2007	(621599)
30	12/17/2007	(621600)
31	01/15/2008	(621601)
32	04/04/2008	(641283)
33	05/30/2008	(654068)
34	02/13/2008	(673547)
35	03/17/2008	(673548)
36	04/11/2008	(673549)
37	05/14/2008	(691816)
38	06/12/2008	(691817)
39	07/16/2008	(691818)
40	08/18/2008	(699954)
41	10/29/2008	(706015)
42	11/21/2008	(708815)
43	08/14/2008	(712785)
44	09/15/2008	(712786)
45	10/10/2008	(712787)
46	01/22/2009	(721577)
47	11/13/2008	(728980)
48	12/15/2008	(728981)
49	01/15/2009	(728982)
50	02/13/2009	(752130)
51	03/11/2009	(752131)
52	04/13/2009	(752132)
53	05/13/2009	(769864)
54	06/10/2009	(769865)
55	12/09/2009	(776936)
56	10/09/2009	(778773)
57	12/14/2009	(782107)
58	01/28/2010	(789475)
59	02/05/2010	(790919)
60	08/02/2010	(798172)
61	07/13/2010	(802580)
62	02/17/2010	(809102)
63	08/14/2009	(809103)
64	08/11/2009	(809104)
65	02/17/2010	(809105)
66	10/15/2009	(809106)
67	11/12/2009	(809107)
68	02/17/2010	(809108)
69	01/20/2010	(809109)
70	03/12/2010	(832481)
71	04/20/2010	(832482)

72	05/12/2010	(832483)
73	06/18/2010	(846766)
74	08/31/2010	(857626)
75	07/19/2010	(861291)
76	09/16/2010	(864204)
77	11/15/2010	(864736)
78	08/31/2010	(867442)
79	09/10/2010	(874464)
80	01/06/2011	(877461)
81	01/10/2011	(878304)
82	10/11/2010	(882045)
83	11/11/2010	(888512)
84	03/14/2011	(891512)
85	12/13/2010	(896853)
86	11/11/2010	(902811)
87	02/15/2011	(909652)
88	04/18/2011	(912924)
89	03/16/2011	(916873)
90	04/14/2011	(926603)
91	06/17/2011	(933559)
92	05/16/2011	(938587)
93	06/16/2011	(945959)
94	08/22/2011	(948763)

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

Date: 01/05/2007 (486679) CN600128862
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 315, SubChapter A 315.1
 40 CFR Chapter 403, SubChapter N, PT 403.403.8(f)(5)
 Description: Failure to escalate enforcement against a noncompliant industrial user to obtain compliance. Failure to randomly sample and analyze effluent from IUs to identify industries in significant noncompliance.

Date: 01/02/2008 (611731) CN600128862
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THSC Chapter 382 382.085(b)
 7553, Special Condition 10A PERMIT
 Description: Failure to conduct stack sampling for Unit GT-2 during the fourth quarter of 2006, as required under New Source Review Permit No. 7553, Condition 10A.

Date: 04/01/2008 (654068)
 Self Report? NO Classification: Major
 Citation: TWC Chapter 26 26.121
 Description: Failure to prevent an unauthorized discharge of wastewater that resulted in a fish kill.

Date: 07/31/2008 (712785) CN600128862
 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: 10/28/2008 (706015) CN600128862
 Self Report? NO Classification: Moderate
 Citation: TWC Chapter 26 26.121
 Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Date: 12/15/2009 (782107) CN600128862
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter C 319.302
 Description: Failure to provide the required public notification of a spill or accidental discharge of untreated domestic wastewater.

Date: 07/19/2010 (857626)
 Self Report? NO Classification: Minor

Citation:	40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(ii) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iii)		
Description:	The CA failed to determine that the W. Pat Crow facility's heat treatment quench tank is a categorical process subject to the Aluminum Forming Point Source Category pretreatment standards identified in 40 CFR Part 467.		
Self Report?	NO	Classification:	Minor
Citation:	40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(v)		
Description:	The Control Authority (CA) failed to inspect two significant industrial users (SIUs) at least once during the 2007- 2008 pretreatment year; failed to monitor SIUs for all of the applicable local limits adopted in Section 12.5-610 of the CA's ordinance; and failed to sample and analyze for pH at Bell Helicopter during the June 2008 sampling event.		
Self Report?	NO	Classification:	Minor
Citation:	40 CFR Chapter 403, SubChapter N, PT 403 403.6(e) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(1)(iii)(B)		
Description:	The Control Authority failed to issue permits to several significant industrial users (SIUs) with the appropriate local limits or alternative pretreatment limits for categorical pretreatment standards using the combined wastestream formula (CWF).		
Self Report?	NO	Classification:	Moderate
Citation:	40 CFR Chapter 403, SubChapter N, PT 403 403.12(g)(1) 40 CFR Chapter 403, SubChapter N, PT 403 403.12(h) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iv) 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)		
Description:	The CA failed to adequately review self-monitoring reports and validate laboratory reports submitted by SIUs; failed to: 1) follow its enforcement response plan and issue timely initial actions within 15 working days of becoming aware of violations; 2) escalate enforcement against Ventura for repeated failure to comply with limits and SNC and Quala Wash for failure to respond to issued NOV's, and Accurate for failure to respond to the 1/3/07 SNC notification (finally issued a NOV 3 years late).		
Date	01/03/2011	(877461)	CN600128862
Self Report?	NO	Classification:	Moderate
Citation:	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) TWC Chapter 26 26.121(a)(1) TWC Chapter 26 26.121(a)(2) TWC Chapter 26 26.121(a)(3) TWC Chapter 26 26.121(b) TWC Chapter 26 26.121(c) TWC Chapter 26 26.121(d) TWC Chapter 26 26.121(e)		
Description:	Failure to prevent the discharge of sewage in the collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d) WQ0010494-013 PERMIT		
Description:	Failure to measure effluent flow at the required location.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) WQ0010494-013 PERMIT		
Description:	Failure to accurately complete DMRs.		

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 FORT WORTH
RN100942259**

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

**AGREED ORDER
DOCKET NO. 2011-1595-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding City of Fort Worth (“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 presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located southeast of the confluence of the West Fork Trinity River with Village Creek with an associated collection system line located at 2012 East Rosedale Street in Fort Worth, Tarrant 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. During a record review on July 11, 2011, TCEQ staff documented that an unauthorized discharge had occurred. A blockage in a sewer line located at 2012 East Rosedale Street caused a backup of sewage which resulted in a discharge of approximately 4,000 gallons of sewage from a nearby manhole. The discharge then traveled into a nearby field to a storm water drain and then entered Sycamore Creek, killing an estimated 857 fish.
4. The Respondent received notice of the violations on August 23, 2011.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On July 11, 2011, impounded the sewer flow, pumped the sewage back into the collection system, and disinfected the area; and
 - b. On July 11, 2011, cleared the collection system line blockage and restored service to the line.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater from a collection system into water in the state, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010494013, Permit Conditions No. 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Ten Thousand Dollars (\$10,000) shall be conditionally offset by Respondent's completion of a Supplemental Environmental Project ("SEP")

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Fort Worth, Docket No. 2011-1595-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 II, Paragraph 4 above, the Ten Thousand Dollar (\$10,000) 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. 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.
4. 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.
5. 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.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Donna for R. Hyde
For the Executive Director

12-20-11
Date

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

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

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

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

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

Fernando Costa
Signature

10/18/11
Date

Fernando Costa
Name (Printed or typed)
Authorized Representative of
City of Fort Worth

Assistant City Manager
Title

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

Attachment A
Docket Number: 2011-1595-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Fort Worth

Penalty Amount: Ten Thousand Dollars (\$10,000)

SEP Offset Amount: Ten Thousand Dollars (\$10,000)

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 the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP offset amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Caddo Lake Institute 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.

The 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

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

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

3. Records and Reporting

Concurrent with the payment of the SEP offset amount, the 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. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219

City of Fort Worth
Agreed Order - Attachment A

P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the 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, the 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
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the Project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.