

Executive Summary – Enforcement Matter – Case No. 38706

City of Dodd City

RN101608867

Docket No. 2012-2670-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order and 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:

Dodd City WWTS, located approximately 2,200 feet southwest of the intersection of State Highway 897 and U.S. Highway 82, and 2,500 feet southeast of the intersection of U.S. Highway 82 and Farm-to-Market Road 2077, southeast of Dodd City, Fannin County

Type of Operation:

Domestic wastewater treatment system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 2, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$45,325

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: \$45,325

Name of SEP: Compliance SEP - Wastewater Treatment Plant Improvements

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 38706

City of Dodd City

RN101608867

Docket No. 2012-2670-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 17, 2012

Date(s) of NOE(s): October 31, 2012

Violation Information

Failed to comply with permit effluent limits for total suspended solids, *E. Coli*, fecal coliform, pH, dissolved oxygen, and biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010538001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, and TCEQ Agreed Order Docket No. 2009-1954-MWD-E, Ordering Provision No. 3].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to, within 470 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010538001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: 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: Remington Burklund, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2611; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

Executive Summary – Enforcement Matter – Case No. 38706

City of Dodd City

RN101608867

Docket No. 2012-2670-MWD-E

TCEQ SEP Coordinator: Stephanie Frazee, SEP Coordinator, Litigation Division,
MC 175, (512) 239-3693

Respondent: The Honorable Jackie Lackey, Mayor, City of Dodd City, P.O. Box 129,
Dodd City, Texas 75438

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-2670-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Dodd City
Penalty Amount:	Forty-Five Thousand Three Hundred Twenty-Five Dollars (\$45,325)
SEP Offset Amount:	Forty-Five Thousand Three Hundred Twenty-Five Dollars (\$45,325)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Plant Improvements</i>
Location of SEP:	Fannin County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s current wastewater treatment facility. Respondent shall purchase and install a Package Plant which will include a primary clarifier, disinfection, and sludge drying system. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for the following: primary clarifier (the “Project”). Respondent shall solicit bids from qualified contractors to install the Package Plant system. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has not previously performed this Project, and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Primary Clarifier	1	\$200,000.00	Each	\$200,000.00
Total				\$200,000.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 470 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 470-day time frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ Enforcement and Litigation Divisions in 90-day increments containing

City of Dodd City
Attachment A

detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
360	Actions completed during previous 90-day period
470	Notice of SEP completion

B. Final Report

Within 470 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids (publication must include the enforcement statement, as stated in Section 6, Publicity, below);
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following addresses:

City of Dodd City
Attachment A

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

and to:

Texas Commission on Environmental Quality
Litigation Division
Attention: Order Tracker, MC 224
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

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

6. Publicity

Any public statements concerning this Project 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.

7. Clean Texas Program

Respondent shall not include this Project 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.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached 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	12-Nov-2012	Screening	29-Nov-2012	EPA Due	
	PCW	12-Nov-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Dodd City
Reg. Ent. Ref. No.	RN101608867
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	3
Enf./Case ID No.	38706	Order Type	Findings
Docket No.	2012-2670-MWD-E	Government/Non-Profit	Yes
Media Program(s)	Water Quality	Enf. Coordinator	Jeremy Escobar
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$24,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **85.0%** Enhancement **Subtotals 2, 3, & 7** **\$20,825**

Notes: Enhancement for 12 months of self-reported effluent violations, one NOV with same or similar violations, and one order with a 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: \$1,799
 Approx. Cost of Compliance: \$10,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$45,325**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$45,325**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$45,325**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$45,325**

Screening Date 29-Nov-2012

Docket No. 2012-2670-MWD-E

PCW

Respondent City of Dodd City

Policy Revision 2 (September 2002)

Case ID No. 38706

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101608867

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

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>)	13	65%
	Other written NOVs	0	0%
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%
<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) 85%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for 12 months of self-reported effluent violations, one NOV with same or similar violations, and one order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

Screening Date 29-Nov-2012

Docket No. 2012-2670-MWD-E

PCW

Respondent City of Dodd City

Policy Revision 2 (September 2002)

Case ID No. 38706

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101608867

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s)

Texas Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010538001, Effluent Limitations and Monitoring Requirements Nos.1 and 6, and TCEQ Agreed Order Docket No. 2009-1954-MWD-E, Ordering Provision No. 3.

Violation Description

Failed to comply with permit effluent limits, as documented in a record review conducted on October 17, 2012, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Dissolved oxygen and E. coli were also considered. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3

89 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Three monthly events are recommended for the months of February, March and April 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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,799

Violation Final Penalty Total \$27,750

This violation Final Assessed Penalty (adjusted for limits) \$27,750

Economic Benefit Worksheet

Respondent City of Dodd City
Case ID No. 38706
Reg. Ent. Reference No. RN101608867
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	5-Feb-2011	10-Sep-2014	3.60	\$1,799	n/a	\$1,799

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the effective date of Agreed Order 2009-1954-MWD-E. The final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$1,799

Screening Date 29-Nov-2012
Respondent City of Dodd City
Case ID No. 38706
Reg. Ent. Reference No. RN101608867
Media [Statute] Water Quality
Enf. Coordinator Jeremy Escobar

Docket No. 2012-2670-MWD-E

PCW

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

Violation Number

Rule Cite(s)

Texas Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010538001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, and TCEQ Agreed Order Docket No. 2009-1954-MWD-E, Ordering Provision No. 3.

Violation Description

Failed to comply with permit effluent limits, as documented in a record review conducted on October 17, 2012, and shown in the attached table.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. pH and E. coli were also considered. As a result of these discharges, human health or the environment has been exposed to a significant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty

One monthly event is recommended for the month of February 2012.

Good Faith Efforts to Comply

0.0% Reduction

	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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Dodd City
Case ID No. 38706
Reg. Ent. Reference No. RN101608867
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for violation no. 1.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 29-Nov-2012

Docket No. 2012-2670-MWD-E

PCW

Respondent City of Dodd City

Policy Revision 2 (September 2002)

Case ID No. 38706

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101608867

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 3

Rule Cite(s)

Texas Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010538001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, and TCEQ Agreed Order Docket No. 2009-1954-MWD-E, Ordering Provision No. 3.

Violation Description

Failed to comply with permit effluent limits, as documented in a record review conducted on October 17, 2012, and shown in the attached table.

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

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids, dissolved oxygen, pH, and E. coli were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 7

560 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,000

Seven quarterly events are recommended for the quarters containing the months of May 2011 through January 2012 and March 2012 through the November 29, 2012 screening date.

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 \$7,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$12,950

This violation Final Assessed Penalty (adjusted for limits) \$12,950

Economic Benefit Worksheet

Respondent City of Dodd City
Case ID No. 38706
Reg. Ent. Reference No. RN101608867
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit for violation no. 1.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

City of Dodd City
Texas Pollutant Discharge Elimination System Permit No. WQ0010538001
Docket No. 2012-2670-MWD-E; Case No. 38706

EFFLUENT VIOLATION TABLE										
Months	DO Daily Avg. Conc.	BOD Daily Avg. Conc.	BOD Daily Avg. Loading	pH Max. Conc.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading	E. Coli Daily Avg.	E. Coli Single Grab	Fecal Coliform Daily Avg.	Fecal Coliform Single Grab
	Min. = 4 mg/L	Limit = 30 mg/L	Limit = 12 lb/d	Limit = 9 SU	Limit = 90 mg/L	Limit = 36 lb/d	Limit = 126 CFU/100	Limit = 394 CFU/100	Limit = 200 CFU/100	Limit = 800 CFU/100
February 2011	c	30.7	c	c	c	c	N/A	N/A	2,400	3,200
March 2011	3.2	31.8	c	c	c	c	5,250	5,400	N/A	N/A
April 2011	3.5	34	c	c	c	c	T	T	N/A	N/A
May 2011	3.5	c	c	c	c	c	c	c	N/A	N/A
June 2011	2.1	c	c	9.3	c	c	214.3	c	N/A	N/A
July 2011	3.1	c	c	9.2	c	c	c	c	N/A	N/A
August 2011	3.6	39.3	c	9.6	c	c	c	c	N/A	N/A
September 2011	2.9	43	c	9.9	c	c	c	c	N/A	N/A
October 2011	1.8	42.9	c	9.1	166	c	c	c	N/A	N/A
November 2011	3.5	40.3	c	c	122.5	c	c	c	N/A	N/A
December 2011	c	c	c	c	c	76.175	341.65	435.2	N/A	N/A
January 2012	c	c	22.8	c	c	c	c	c	N/A	N/A
February 2012	c	32.6	c	9.2	c	c	994.05	1,553.1	N/A	N/A
March 2012	2	35.675	15.408	c	c	c	c	c	N/A	N/A
April 2012	3.7	45.625	c	c	c	c	c	c	N/A	N/A
May 2012	2.2	41.26	c	c	c	c	c	c	N/A	N/A
June 2012	2.1	c	c	9.3	c	c	c	c	N/A	N/A
July 2012	3.1	48.6	c	c	c	c	c	c	N/A	N/A
August 2012	3.3	52.9	c	9.3	c	c	c	c	N/A	N/A
September 2012	2.7	38.45	c	c	119.5	c	c	c	N/A	N/A
October 2012	1.9	44.36	c	9.2	c	c	c	c	N/A	N/A

BOD = biochemical oxygen demand
mg/L = milligrams per liter
E. coli = *Escherichia coli*
Conc. = concentration
Avg. = average
SU = standard units
Min. = minimum
N/A = not applicable

c = compliant
Max. = maximum
TSS = Total Suspended Solids
lb/d = pounds per day
CFU = colonies per 100 milliliters
DO = dissolved oxygen
T = too numerous to count

*with the issuance of the permit renewal (February 21, 2011) fecal coliform requirement was changed to *E.coli*

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600665228, RN101608867, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600665228, City of Dodd City **Classification:** SATISFACTORY **Rating:** 22.33

Regulated Entity: RN101608867, DODD CITY **Classification:** SATISFACTORY **Rating:** 22.33

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: LOCATED APPROXIMATELY 2200 FT SW OF THE INTERSECTION OF SH897 AND US HWY 82 AND APPROXIMATELY 2500 FT SE OF THE INTERSECTION OF US HWY 82 AND FM 2077 SE OF DODD CITY IN FANNIN COUNTY, TX 75348

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
WASTEWATER PERMIT WQ0010538001 **WASTEWATER EPA ID** TX0057169
WASTEWATER LICENSING LICENSE WQ0010538001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: December 13, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 29, 2007 to November 29, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Jeremy Escobar **Phone:** (361) 825-3422

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 02/05/2011 ADMINORDER 2009-1954-MWD-E (1660 Order-Agreed Order With Denial)
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 meet effluent permit limit requirements for BOD, TSS, pH, DO and fecal coliform.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 319, SubChapter A 319.1
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	December 28, 2007	(622178)
Item 2	May 20, 2008	(692218)
Item 3	June 20, 2008	(713318)
Item 4	July 17, 2008	(713319)
Item 5	January 21, 2009	(752622)
Item 6	October 15, 2009	(810386)
Item 7	January 21, 2010	(810388)
Item 8	February 19, 2010	(810381)
Item 9	April 23, 2010	(832883)
Item 10	April 30, 2010	(861395)
Item 11	January 28, 2011	(927157)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 11/30/2011 (991315)	CN600665228	
	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		
2	Date: 12/31/2011 (1032268)	CN600665228	
	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		
3	Date: 01/31/2012 (1024914)	CN600665228	
	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		
4	Date: 02/23/2012 (982690)	CN600665228	
	Self Report? NO	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limits PERMIT		
	Description: Failure to meet effluent permit limit requirements for BOD, TSS, pH, DO and fecal coliform.		
	Self Report? NO	Classification: Moderate	
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(17) 30 TAC Chapter 319, SubChapter A 319.1 Effluent Limits PERMIT		
	Description: Failure to submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review.		
5	Date: 02/29/2012 (1024915)	CN600665228	
	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		
6	Date: 03/31/2012 (1024916)	CN600665228	
	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	
7	Date:	04/30/2012 (1024917)	CN600665228
	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	
8	Date:	05/31/2012 (1024918)	CN600665228
	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	
9	Date:	06/30/2012	CN600665228
	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	
10	Date:	07/31/2012	CN600665228
	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	
11	Date:	08/31/2012	CN600665228
	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	
12	Date:	09/30/2012	CN600665228
	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	
13	Date:	10/31/2012	CN600665228
	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 DODD CITY
RN101608867**

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

**AGREED ORDER
DOCKET NO. 2012-2670-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 the City of Dodd City ("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 domestic wastewater treatment system located approximately 2,200 feet southwest of the intersection of State Highway 897 and U.S. Highway 82, and 2,500 feet southeast of the intersection of U.S. Highway 82 and Farm-to-Market Road 2077, southeast of Dodd City in Fannin 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 conducted on October 17, 2012, TCEQ staff documented the following effluent permit exceedances from the self-reported monthly discharge monitoring reports:

EFFLUENT VIOLATION TABLE										
Months	DO Daily Avg. Conc.	BOD Daily Avg. Conc.	BOD Daily Avg. Loading	pH Max. Conc.	TSS Daily Avg. Conc.	TSS Daily Avg. Loading	E. Coli Daily Avg.	E. Coli Single Grab	Fecal Coliform Daily Avg.	Fecal Coliform Single Grab
	Min. = 4 mg/L	Limit = 30 mg/L	Limit = 12 lb/d	Limit = 9 SU	Limit = 90 mg/L	Limit = 36 lb/d	Limit = 126 CFU/100	Limit = 394 CFU/100	Limit = 200 CFU/100	Limit = 800 CFU/100
February 2011	c	30.7	c	c	c	c	N/A	N/A	2,400	3,200
March 2011	3.2	31.8	c	c	c	c	5,250	5,400	N/A	N/A
April 2011	3.5	34	c	c	c	c	T	T	N/A	N/A
May 2011	3.5	c	c	c	c	c	c	c	N/A	N/A
June 2011	2.1	c	c	9.3	c	c	214.3	c	N/A	N/A
July 2011	3.1	c	c	9.2	c	c	c	c	N/A	N/A
August 2011	3.6	39.3	c	9.6	c	c	c	c	N/A	N/A
September 2011	2.9	43	c	9.9	c	c	c	c	N/A	N/A
October 2011	1.8	42.9	c	9.1	166	c	c	c	N/A	N/A
November 2011	3.5	40.3	c	c	122.5	c	c	c	N/A	N/A
December 2011	c	c	c	c	c	76.175	341.65	435.2	N/A	N/A
January 2012	c	c	22.8	c	c	c	c	c	N/A	N/A
February 2012	c	32.6	c	9.2	c	c	994.05	1,553.1	N/A	N/A
March 2012	2	35.675	15.408	c	c	c	c	c	N/A	N/A
April 2012	3.7	45.625	c	c	c	c	c	c	N/A	N/A
May 2012	2.2	41.26	c	c	c	c	c	c	N/A	N/A
June 2012	2.1	c	c	9.3	c	c	c	c	N/A	N/A
July 2012	3.1	48.6	c	c	c	c	c	c	N/A	N/A
August 2012	3.3	52.9	c	9.3	c	c	c	c	N/A	N/A
September 2012	2.7	38.45	c	c	119.5	c	c	c	N/A	N/A
October 2012	1.9	44.36	c	9.2	c	c	c	c	N/A	N/A

BOD = biochemical oxygen demand
mg/L = milligrams per liter
E. coli = *Escherichia coli*
Conc. = concentration
Avg. = average
SU = standard units
Min. = minimum
N/A = not applicable

c = compliant
Max. = maximum
TSS = Total Suspended Solids
lb/d = pounds per day
CFU = colonies per 100 milliliters
DO = dissolved oxygen
T = too numerous to count

*with the issuance of the permit renewal (February 21, 2011) fecal coliform requirement was changed to *E. coli*

4. The Respondent received notice of the violations on or about November 5, 2012.

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 comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010538001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, and TCEQ Agreed Order Docket No. 2009-1954-MWD-E, Ordering Provision No. 3.
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 Forty-Five Thousand Three Hundred Hundred Twenty-Five Dollars (\$45,325) 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. Forty-Five Thousand Three Hundred Hundred Twenty-Five Dollars (\$45,325) shall be conditionally offset by the 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 Forty-Five Thousand Three Hundred Twenty-Five Dollars (\$45,325) 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 Dodd City, Docket No. 2012-2670-MWD-E" to:

Financial Administration Division, Revenue Operations 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, Forty-Five Thousand Three Hundred Hundred Twenty-Five Dollars (\$45,325) 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. The Respondent shall, within 470 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010538001, 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 fine 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 78711-308

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. 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.
8. 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.
9. 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.
10. 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.

11. 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

Pam Davis
For the Executive Director

9/18/13

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Dodd City. I am authorized to agree to the attached Agreed Order on behalf of the City of Dodd City, 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 Dodd City 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.

Jackie Lackey
Signature

5-29-13
Date

JACKIE LACKEY
Name (Printed or typed)
Authorized Representative of
City of Dodd City

MAYOR
Title

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

Attachment A
Docket Number: 2012-2670-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Dodd City
Penalty Amount:	Forty-Five Thousand Three Hundred Twenty-Five Dollars (\$45,325)
SEP Offset Amount:	Forty-Five Thousand Three Hundred Twenty-Five Dollars (\$45,325)
Type of SEP:	Compliance SEP
Project Name:	<i>Wastewater Treatment Plant Improvements</i>
Location of SEP:	Fannin County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent’s current wastewater treatment facility. Respondent shall purchase and install a Package Plant which will include a primary clarifier, disinfection, and sludge drying system. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for the following: primary clarifier (the “Project”). Respondent shall solicit bids from qualified contractors to install the Package Plant system. Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has not previously performed this Project, and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Primary Clarifier	1	\$200,000.00	Each	\$200,000.00
Total				\$200,000.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 470 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 470-day time frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ Enforcement and Litigation Divisions in 90-day increments containing

detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
360	Actions completed during previous 90-day period
470	Notice of SEP completion

B. Final Report

Within 470 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Proof of publication of invitation for bids (publication must include the enforcement statement, as stated in Section 6, Publicity, below);
4. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and of the completed Project;
5. Copies of all engineering plans related to work performed pursuant to the Project;
6. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
7. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following addresses:

City of Dodd City
Attachment A

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

and to:

Texas Commission on Environmental Quality
Litigation Division
Attention: Order Tracker, MC 224
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

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

6. Publicity

Any public statements concerning this Project 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.

7. Clean Texas Program

Respondent shall not include this Project 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.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached 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.