

Executive Summary – Enforcement Matter – Case No. 43822

Woodmark Utilities, Inc.

RN101511400

Docket No. 2012-0647-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Woodmark Utilities, located south of Farm-to-Market Road ("FM") 346 , approximately 1.2 miles west of the intersection of FM 346 and U.S. Highway 69, south of Tyler, Smith County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 21, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$47,182

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$23,591

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$23,591

Name of SEP: The Conservation Fund, Bunn's Lake Habitat Acquisition & Presentation Project

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

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Woodmark Utilities, Inc.
RN101511400
Docket No. 2012-0647-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 1, 2011 and November 28, 2011

Date(s) of NOE(s): March 9, 2012

Violation Information

1. Failed to prevent the unauthorized discharge of sewage sludge into water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013168001, Permit Conditions Nos. 2.b. and 2.d.].
2. Failed to initiate engineering and financial planning for expansion and/or upgrading of the Facility when the effluent daily average flow measurements reached 75% of the permitted daily average flow limit for at least three consecutive months and to obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection units when reaching 90% of the permitted flow for at least three consecutive months [30 TEX. ADMIN. CODE § 305.126(a) and TPDES Permit No. WQ0013168001, Operational Requirements No. 8].
3. Failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director [TEX. ADMIN. CODE §§ 305.125 and 319.11(d), TPDES Permit No. WQ0013168001, Monitoring and Reporting Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. On October 28, 2011, placed a 50 foot oil containment boom at the outfall to trap solids;
- b. By October 2011, removed 63,000 gallons of discharged effluent estimated at 9.6 milligrams per liter of total suspended solids or approximately 61 pounds of sewage sludge, which is the semi-solid or liquid treatment process residue, from the receiving stream;
- c. By December 31, 2011, completed Facility flow verification, evaluated the impact on historical flows and flow projections, and completed a Facility site master plan;
- d. By March 20, 2012, submitted corrected discharge monitoring reports ("DMRs") for the months of October 2011, December 2011, and January 2012;

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RN101511400
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- e. By March 21, 2012, submitted corrected DMRs for the months of February 2011, March 2011, and May through August 2011; and
- f. On April 17, 2012, submitted an updated written timeline and plan for Facility expansion, including proposals for installation and construction of operational units.

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:
 - a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that all Facility operational procedures are properly accomplished, including procedures for the prevention of the unauthorized discharge of sewage sludge into water in the state and accurate flow measurements;
 - b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.;
 - c. Within 45 days, complete remediation of the receiving stream by removing and disposing of sludge and related materials ("removed materials") from the impacted portions of the receiving stream. Disposal of any removed materials shall be carried out in accordance with all applicable rules of the TCEQ and in a manner that prevents contamination of surface or groundwater. The Facility shall maintain written records of the location, nature and amount of each type of sludge or other deposits removed, the technique used for removal and transport, and the ultimate disposal site;
 - d. Within 60 days, submit written certification demonstrating compliance with Ordering Provision c.;
 - e. Within 60 days, develop and implement a solids management plan ("SMP"). The SMP shall outline a program of internal process control testing to monitor the efficiency of the wastewater treatment plant and to maintain the proper solids balance within the system. The plan shall be prepared by a Texas registered professional engineer. At a minimum, the plan shall include the following items:
 - i. A schedule for performing the following process control analyses and recommended ranges to be maintained: mixed liquor thirty-minute sludge settleability, mixed liquor suspended solids, mixed liquor dissolved oxygen concentration, clarifier sludge blanket depth, and residual chlorine concentration;
 - ii. Procedures outlining actions to be taken in the event that any of the above process control analyses fall outside the recommended range; and

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Woodmark Utilities, Inc.

RN101511400

Docket No. 2012-0647-MWD-E

iii. Specific sampling locations for the above stated process control measurements;

Organized, written records of the process control analyses shall be maintained for a period of three years at the Facility in a daily log book and shall be made available to TCEQ representatives upon request.

f. Within 75 days, submit written certification demonstrating compliance with Ordering Provision e.;

g. Respond completely and adequately, as determined by TCEQ, to any requests for information and/or address any deficiencies identified by the TCEQ concerning permit applications to complete installation and construction of operational units described in the Facility expansion plan within 30 days after the date of such requests or by any other deadline specified in writing.

h. Within 300 days, submit written certification of compliance with all permit requirements of TPDES Permit No. WQ0013168001, including specific corrective actions that were implemented at the Facility to achieve compliance with all permit requirements, including the prevention of the discharge of sewage sludge into water in the state.

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: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

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

Respondent: Gregory S. Sorensen, Vice President & General Manager, Woodmark Utilities, Inc., FM 2493, Suite E, Tyler, Texas 75703-7983

Respondent's Attorney: Mark H. Zeppa, Law Offices of Mark H. Zeppa, P.C., 4833 Spicewood Springs Road, Suite 202, Austin, Texas 78759-8436

Attachment A
Docket Number: 2012-0647-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Woodmark Utilities, Inc.

Penalty Amount: Forty-Seven Thousand One Hundred Eighty-Two Dollars (\$47,182)

SEP Amount: Twenty-Three Thousand Five Hundred Ninety-One Dollars (\$23,591)

Type of SEP: Contribution to a Third-Party Pre-Approved SEP

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Water or Wastewater Treatment Assistance

Location of SEP: Smith County; Neches and Sabine River Basins; Carrizo-Wilcox Aquifer

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of RC&D to be used for the Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP 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 amount.

Woodmark Utilities, Inc.
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an 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-Mar-2012 PCW 11-Apr-2012 Screening 21-Mar-2012 EPA Due <input type="text"/> |

| | |
|--|--------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Woodmark Utilities, Inc. |
| Reg. Ent. Ref. No. | RN101511400 |
| Facility/Site Region | 5-Tyler |
| Major/Minor Source | Minor |

| | | | |
|--|----------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 43822 | No. of Violations | 1 |
| Docket No. | 2012-0647-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | <input type="text"/> | Enf. Coordinator | Jill Russell |
| Admin. Penalty \$ Limit Minimum | \$0 | EC's Team | Enforcement Team 3 |
| Maximum | \$10,000 | | |

Penalty Calculation Section

| | | |
|---|-------------------|--------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$600 |
|---|-------------------|--------------|

| | | |
|--|--------------------|---|
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | | |
| Compliance History | 182.0% Enhancement | Subtotals 2, 3, & 7 \$1,092 |

Notes: Enhancement for 23 months of self-reported effluent violations, five NOV's with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$60 |
|--|-------------------|-------------|

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

Total EB Amounts \$8
Approx. Cost of Compliance \$150
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$1,632 |
|-----------------------------|-----------------------|----------------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$1,632**

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$1,632 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|----------------|-------------------|------------|
| 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 | \$1,632 |
|------------------------|----------------|

Screening Date 21-Mar-2012

Docket No. 2012-0647-MWD-E

PCW

Respondent Woodmark Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43822

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511400

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

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>) | 28 | 140% |
| | Other written NOVs | 1 | 2% |
| 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 | 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) 182%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 23 months of self-reported effluent violations, five NOVs with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 182%

Screening Date 21-Mar-2012

Docket No. 2012-0647-MWD-E

PCW

Respondent Woodmark Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 43822

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101511400

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125 and 319.11(d), Texas Pollutant Discharge Elimination System Permit No. WQ0013168001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director. Specifically, the investigator documented that the discharge monitoring reports ("DMRs") flow data were not equivalent to the monthly operating reports kept by the Respondent onsite for the months of February, March, May, June, July, and August 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | X |

Percent 1%

Matrix Notes

70% or more of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 6

182 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

mark only one with an x

Violation Base Penalty \$600

Six single events are recommended (one event for each month).

Good Faith Efforts to Comply

10.0% Reduction

\$60

Before NOV NOV to EDPRP/Settlement Offer

| | |
|---------------|---------------|
| Extraordinary | |
| Ordinary | X |
| N/A | (mark with x) |

Notes

The Respondent achieved compliance on March 21, 2012.

Violation Subtotal \$540

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,632

This violation Final Assessed Penalty (adjusted for limits) \$1,632

Economic Benefit Worksheet

Respondent Woodmark Utilities, Inc.
Case ID No. 43822
Reg. Ent. Reference No. RN101511400
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) | \$150 | 20-Mar-2011 | 21-Mar-2012 | 1.01 | \$8 | n/a | \$8 |

Notes for DELAYED costs

Estimated cost to calculate accurate flow measurements (\$25 per DMR). Date required is the date of the first monthly DMR with accurate flow measurements was due and the final date is the date revised DMRs were submitted.

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

\$150

TOTAL

\$8



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 12-Mar-2012 | Screening | 21-Mar-2012 | EPA Due | |
| | PCW | 7-Sep-2012 | | | | |

| | |
|--|--------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Woodmark Utilities, Inc. |
| Reg. Ent. Ref. No. | RN101511400 |
| Facility/Site Region | 5-Tyler |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 43822 | No. of Violations | 3 |
| Docket No. | 2012-0647-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Jill Russell |
| | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|-----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$18,250 |
|---|-------------------|-----------------|

| | | |
|--|---------------------------|--------------------------------|
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | | |
| Compliance History | 100.0% Enhancement | Subtotals 2, 3, & 7 |
| | | \$18,250 |

Notes: Enhancement for 23 months of self-reported effluent violations, five NOV's with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability.

| | | | | |
|--------------------|----|-------------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|-------------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$75 |
|--|-------------------|-------------|

| | | | |
|----------------------------|---------------------------|-----------------------------------|----------------|
| Economic Benefit | 50.0% Enhancement* | Subtotal 6 | \$9,125 |
| Total EB Amounts | \$288,517 | *Capped at the Total EB \$ Amount | |
| Approx. Cost of Compliance | \$2,255,609 | | |

| | | |
|-----------------------------|-----------------------|-----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$45,550 |
|-----------------------------|-----------------------|-----------------|

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

| | | | |
|--------|--|-----------------------------|-----------------|
| Notes: | | Final Penalty Amount | \$45,550 |
|--------|--|-----------------------------|-----------------|

| | | |
|-----------------------------------|-------------------------------|-----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$45,550 |
|-----------------------------------|-------------------------------|-----------------|

| | | | |
|-----------------|-----------------------|-------------------|------------|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|-----------------------|-------------------|------------|

| | |
|--------|---|
| Notes: | No deferral is recommended for Findings Orders. |
|--------|---|

| | |
|------------------------|-----------------|
| PAYABLE PENALTY | \$45,550 |
|------------------------|-----------------|

Screening Date 21-Mar-2012

Docket No. 2012-0647-MWD-E

PCW

Respondent Woodmark Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 43822

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101511400

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

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>) | 28 | 140% |
| | Other written NOVs | 1 | 2% |
| 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 | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 182%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 23 months of self-reported effluent violations, five NOVs with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 182%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 21-Mar-2012

Docket No. 2012-0647-MWD-E

PCW

Respondent Woodmark Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 43822

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101511400

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013168001, Permit Conditions Nos. 2.b. and 2.d.

Violation Description Failed to prevent the unauthorized discharge of sewage sludge from the Facility into water in the state. Specifically, significant amounts of sludge were observed floating in the clarifier, flowing into the chlorine contact chamber, discharging from the outfall and impacting the receiving stream approximately one mile from the outfall. Samples taken during the investigation indicated elevated concentrations of carbonaceous biochemical oxygen demand and total suspended solids.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | X | |
| Potential | | | |

Percent 15.0%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

114 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | X |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$15,000

Four monthly events are recommended from November 28, 2011, the date the violation was photographically documented, to the March 21, 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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$950

Violation Final Penalty Total \$37,500

This violation Final Assessed Penalty (adjusted for limits) \$37,500

Economic Benefit Worksheet

Respondent Woodmark Utilities, Inc.
Case ID No. 43822
Reg. Ent. Reference No. RN101511400
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 | \$500 | 1-Nov-2011 | 31-Oct-2012 | 1.00 | \$25 | n/a | \$25 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$16,800 | 1-Nov-2011 | 7-Dec-2012 | 1.10 | \$925 | n/a | \$925 |

Notes for DELAYED costs

Actual costs to remove, transport, and dispose of discharged sludge. Date Required is the date of the investigation. Final Date is the projected date of compliance. Estimated costs to update the Facility's operational guidance and conduct training to ensure that all reporting procedures are properly accomplished, including procedures for the prevention of the unauthorized discharge of sewage sludge into water in the state and solids management plan. Date required is the date of the investigation. 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 \$17,300

TOTAL \$950

Screening Date 21-Mar-2012

Docket No. 2012-0647-MWD-E

PCW

Respondent Woodmark Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 43822

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101511400

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.126(a) and TPDES Permit No. WQ0013168001, Operational Requirements No. 8

Violation Description

Failed to initiate engineering and financial planning for expansion and/or upgrading of the Facility when the effluent daily average flow measurements reached 75% of the permitted daily average flow limit for at least three consecutive months. In addition, the Respondent had not obtained authorization from the TCEQ to commence construction of the necessary additional treatment and/or collection units when the Facility exceeded 90% of the permitted daily average flow for three consecutive months. Specifically, the flow at the Facility exceeded both 75% and 90 % of the permitted daily average flow limit of 0.25 million gallons per day ("MGD") during the months of September 2011 through January 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 5.0% |
| Potential | | X | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0.0% |

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 141 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$2,500

Two quarterly events are recommended from the investigation date of November 1, 2011, to the screening date of March 21, 2012.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$287,566

Violation Final Penalty Total \$6,250

This violation Final Assessed Penalty (adjusted for limits) \$6,250

Economic Benefit Worksheet

Respondent Woodmark Utilities, Inc.
Case ID No. 43822
Reg. Ent. Reference No. RN101511400
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 | \$150,000 | 30-Sep-2011 | 31-Jul-2013 | 1.84 | \$918 | \$18,356 | \$19,274 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | \$2,087,367 | 30-Sep-2011 | 31-Jul-2013 | 1.84 | \$12,772 | \$255,440 | \$268,212 |
| 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) | \$867 | 30-Sep-2011 | 31-Jul-2013 | 1.84 | \$80 | n/a | \$80 |

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and take necessary corrective actions to initiate engineering and financial planning for expansion and/or upgrading the Facility and to submit an application to construct the necessary additional treatment and/or collection facilities. Date required is the first month of noncompliance. The final date is the projected 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

\$2,238,234

TOTAL

\$287,566

Screening Date 21-Mar-2012

Docket No. 2012-0647-MWD-E

PCW

Respondent Woodmark Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 43822

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101511400

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125 and 319.11(d), TPDES Permit No. WQ0013168001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director. Specifically, the investigator documented that the discharge monitoring reports ("DMRs") flow data were not equivalent to the monthly operating reports kept by the Respondent onsite for the months of October and December 2011, and January 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 0.0% |
| | Potential | | | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Harm | | | Percent |
|--------------|---------------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | | | X | 1.0% |

Matrix Notes

70% or more of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 63

| | | |
|-------------------------|------------|--|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | |
| single event | X | |

Violation Base Penalty \$750

Three single events are recommended (one event for each month).

Good Faith Efforts to Comply

10.0% Reduction

\$75

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | X |
| N/A | | (mark with x) |

Notes The Respondent achieved compliance on March 20, 2012.

Violation Subtotal \$675

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,800

This violation Final Assessed Penalty (adjusted for limits) \$1,800

Economic Benefit Worksheet

Respondent Woodmark Utilities, Inc.
Case ID No. 43822
Reg. Ent. Reference No. RN101511400
Media Water Quality
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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) | \$75 | 20-Nov-2011 | 20-Mar-2012 | 0.33 | \$1 | \$1 |

Notes for DELAYED costs

Estimated cost to calculate accurate flow measurements (\$25 per DMR). Date required is the date the first monthly DMR with accurate flow measurements was due and the final date is the date revised DMRs were submitted.

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 \$75

TOTAL \$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN600788137 WOODMARK UTILITIES, INC. Classification: AVERAGE Rating: 3.21
Regulated Entity: RN101511400 WOODMARK UTILITIES, INC. Classification: AVERAGE Site Rating: 3.42
ID Number(s): WASTEWATER PERMIT WQ0013168001
WASTEWATER EPA ID TX0098795
WASTEWATER LICENSING LICENSE WQ0013168001
Location: South of Farm-to-Market Road 346 approximately 1.2 miles west of the intersection of Farm-to-Market Road 346 and United States Highway 69, south of Tyler in Smith County, Texas
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: May 07, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 07, 2007 to May 07, 2012

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

Name: Jill Russell Phone: 512-239 - 4564

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 05/11/2007 ADMINORDER 2004-0677-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: 13168-001 PERMIT

Description: Failure to clean and remediate the area effected by the October 27, 2003, unauthorized discharge of wastewater from the Sandhill Lane lift station.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3

Rqmt Prov: Operational Req. Prov 1 PERMIT

Description: Failure to ensure all lift stations are intruder-resistant with a controlled access.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Operational Req. Prov. 1 PERMIT

Description: Failure to properly maintain the wastewater collection system in a manner to prevent infiltration.

Effective Date: 07/02/2011

ADMINORDER 2010-1884-MWD-E

Classification: Moderate

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

Rqmt Prov: Int. Eff. Lim. & Mon. Req. No. 1 PERMIT

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

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

| | | |
|----|------------|----------|
| 1 | 05/23/2007 | 627538 |
| 2 | 06/20/2007 | (627539) |
| 3 | 07/23/2007 | (627540) |
| 4 | 08/16/2007 | (627541) |
| 5 | 09/24/2007 | (627543) |
| 6 | 10/18/2007 | (627545) |
| 7 | 11/26/2007 | (627547) |
| 8 | 12/12/2007 | (627549) |
| 9 | 03/21/2008 | (638235) |
| 10 | 04/04/2008 | (641013) |
| 11 | 02/19/2008 | (676166) |
| 12 | 02/11/2008 | (676167) |
| 13 | 06/06/2008 | (682166) |
| 14 | 03/24/2008 | (694531) |
| 15 | 04/18/2008 | (694532) |
| 16 | 05/19/2008 | (694533) |
| 17 | 06/23/2008 | (715960) |
| 18 | 07/21/2008 | (715961) |
| 19 | 08/20/2008 | (715962) |
| 20 | 10/03/2008 | (715963) |
| 21 | 10/24/2008 | (731582) |
| 22 | 02/19/2009 | (754928) |
| 23 | 01/12/2009 | (754929) |
| 24 | 01/12/2009 | (754930) |
| 25 | 02/19/2009 | (754931) |
| 26 | 09/23/2009 | (767070) |
| 27 | 03/30/2009 | (772110) |
| 28 | 04/20/2009 | (772111) |
| 29 | 02/09/2010 | (790419) |
| 30 | 02/12/2010 | (816363) |
| 31 | 06/23/2009 | (816364) |
| 32 | 06/23/2009 | (816365) |
| 33 | 08/07/2009 | (816366) |
| 34 | 11/10/2009 | (816367) |
| 35 | 09/21/2009 | (816368) |
| 36 | 11/10/2009 | (816369) |
| 37 | 12/07/2009 | (816370) |
| 38 | 01/08/2010 | (816371) |
| 39 | 02/03/2010 | (816372) |

| | | |
|----|------------|----------|
| 40 | 03/12/2010 | (834961) |
| 41 | 05/20/2010 | (834962) |
| 42 | 05/28/2010 | (834963) |
| 43 | 06/22/2010 | (847509) |
| 44 | 07/19/2010 | (868463) |
| 45 | 09/02/2010 | (868464) |
| 46 | 11/12/2010 | (871946) |
| 47 | 09/29/2010 | (875363) |
| 48 | 10/18/2010 | (882920) |
| 49 | 11/17/2010 | (889313) |
| 50 | 12/15/2010 | (897702) |
| 51 | 01/24/2011 | (903593) |
| 52 | 04/06/2011 | (905805) |
| 53 | 02/28/2011 | (910486) |
| 54 | 03/17/2011 | (917724) |
| 55 | 04/25/2011 | (929158) |
| 56 | 05/23/2011 | (939433) |
| 57 | 06/20/2011 | (946844) |
| 58 | 08/01/2011 | (954100) |
| 59 | 08/18/2011 | (960683) |
| 60 | 09/23/2011 | (966774) |
| 61 | 10/21/2011 | (972756) |
| 62 | 12/05/2011 | (985730) |
| 63 | 03/09/2012 | (989986) |
| 64 | 03/09/2012 | (990075) |
| 65 | 01/03/2012 | (992067) |
| 66 | 01/24/2012 | (992068) |
| 67 | 02/16/2012 | (999396) |

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

| | | | |
|------------------|--|-------------|--------------------------|
| Date: 6/30/2007 | (627540) | CN600788137 | |
| 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: 7/31/2007 | (627541) | CN600788137 | |
| 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: 8/31/2007 | (627543) | CN600788137 | |
| 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: 2/29/2008 | (694531) | CN600788137 | |
| 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: 5/31/2008 | (715960) | CN600788137 |
| 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: 6/23/2008 | (687803) | CN600788137 |
| Self Report? NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 317 317.2(d)(1)(F) TWC Chapter 26 26.121 | |
| Description: | Failure to prevent an unauthorized discharge of raw sewage from the lift station at Laura Lane and FM 346. | |
| Self Report? NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) | |
| Description: | Failure to maintain the fence around the lift station in good repair. | |
| Self Report? NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) | |
| Description: | Failure to perform adequate inspection and maintenance of the collection system and related appurtenances. | |
| Self Report? NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 317 317.2(d)(1)(F) 5A THSC Chapter 341, SubChapter A 341.014 | |
| Description: | Failure to remove and disinfect the sewage in the ditch along FM 346. | |
| Date 09/30/2008 | (731582) | CN600788137 |
| Self Report? YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date 10/31/2008 | (754929) | CN600788137 |
| Self Report? YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date 11/30/2008 | (754930) | CN600788137 |
| 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 01/31/2009 | (754928) | CN600788137 |
| Self Report? YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date 02/28/2009 | (772110) | CN600788137 |
| Self Report? YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date 03/31/2009 | (772111) | CN600788137 |
| Self Report? YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |

| | | | | | |
|--------------|--|----------|-------------|-----------------|----------|
| Date | 07/20/2009 | (761966) | CN600788137 | | |
| Self Report? | NO | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(d) 5A THSC Chapter 341, SubChapter A 341.014 | | | | |
| Description: | Failure to prevent an unauthorized discharge of raw sewage. | | | | |
| Date | 08/24/2009 | (767070) | CN600788137 | | |
| Self Report? | NO | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(d) 5A THSC Chapter 341, SubChapter A 341.014 | | | | |
| Description: | Failure to prevent an unauthorized discharge of raw sewage. | | | | |
| Date | 08/31/2009 | (816368) | CN600788137 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date | 09/30/2009 | (816369) | CN600788137 | | |
| 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 | 01/31/2010 | (816363) | CN600788137 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date | 04/30/2010 | (834963) | CN600788137 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date | 05/31/2010 | (847509) | CN600788137 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date | 06/30/2010 | (868463) | CN600788137 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date | 07/31/2010 | (868464) | CN600788137 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date | 10/31/2010 | (889313) | CN600788137 | | |
| Self Report? | YES | | | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | | |
| Date | 02/01/2011 | (891805) | CN600788137 | | |
| Self Report? | NO | | | Classification: | Moderate |

Citation: TWC Chapter 26 26.121
 Description: Failure to prevent an unauthorized discharge of wastewater.

Date 09/30/2011 (972756) CN600788137
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2011 (985730) CN600788137
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 11/30/2011 -990075 CN600788137
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125
 Description: Failure to prevent the unauthorized discharge of sewage sludge into water of the state

Self Report? NO Classification: Minor
 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

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Description: Failure to commence construction of the necessary additional treatment and/or collection facilities when reaching 90% of the permitted flow

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125
 Description: Failure to submit accurate records

Date 12/31/2011 CN600788137
 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 01/31/2012 (999396) CN600788137
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date 03/09/2012 (989986) CN600788137
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to accurately calibrate the flow meter.

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

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



| | | |
|---------------------------------|----------|------------------------------|
| IN THE MATTER OF AN | § | BEFORE THE |
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | TEXAS COMMISSION ON |
| WOODMARK UTILITIES, INC. | § | |
| RN101511400 | § | ENVIRONMENTAL QUALITY |

AGREED ORDER
DOCKET NO. 2012-0647-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 Woodmark Utilities, Inc. (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 represented by Mr. Mark H. Zeppa, Law Offices of Mark H. Zeppa, P.C., together 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 plant located south of Farm-to-Market Road 346 approximately 1.2 miles west of the intersection of Farm-to-Market Road 346 and United States Highway 69, south of Tyler in Smith County, Texas ("the Facility").

2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation concluded on November 28, 2011, the TCEQ Region 5 staff documented that the Respondent's Facility had been discharging sewage sludge into water in the state. Specifically, significant amounts of sludge were observed floating in the clarifier, flowing into the chlorine contact chamber, discharging from the outfall and impacting the receiving stream approximately one mile from the outfall. Samples taken during the investigation indicated elevated concentrations of carbonaceous biochemical oxygen demand and total suspended solids.
4. During an investigation conducted on November 1, 2011, TCEQ staff documented that the Respondent had not initiated engineering and financial planning for expansion and/or upgraded the Facility when the effluent daily average flow measurements reached 75% of the permitted daily average flow limit for at least three consecutive months. In addition, the Respondent had not obtained authorization from the TCEQ to commence construction of the necessary additional treatment and/or collection units when the Facility exceeded 90% of the permitted daily average flow for three consecutive months. Specifically, the flow at the Facility exceeded both 75% and 90 % of the permitted daily average flow limit of 0.25 million gallons per day ("MGD") during the months of September 2011 through January 2012.
5. During an investigation conducted on November 1, 2011, TCEQ staff documented that the Respondent had not submitted correct flow records. Specifically, the investigator documented that the discharge monitoring reports ("DMRs") flow data were not equivalent to the monthly operating reports kept by the Respondent onsite for the months of February, March, May, June, July, August, October 2011, then subsequently, December 2011, and January 2012.
6. The Respondent received notice of the violations on March 13, 2012.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On October 28, 2011, placed a 50 foot oil containment boom at the outfall to trap solids;
 - b. By October 2011, removed 63,000 gallons of discharged effluent estimated at 9.6 milligrams per liter of total suspended solids or approximately 61 pounds of sewage sludge, which is the semi-solid or liquid treatment process residue, from the receiving stream;
 - c. By December 31, 2011, completed Facility flow verification, evaluated the impact on historical flows and flow projections, and completed a Facility site master plan;

- d. By March 20, 2012, submitted corrected DMRs for the months of October 2011, December 2011, and January 2012;
- e. By March 21, 2012, submitted corrected DMRs for the months of February 2011, March 2011, and May through August 2011; and
- f. On April 17, 2012, submitted an updated written timeline and plan for Facility expansion, including proposals for installation and construction of operational units.

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 sewage sludge into water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013168001, Permit Conditions Nos. 2.b. and 2.d.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to initiate engineering and financial planning for expansion and/or upgrading of the Facility when the effluent daily average flow measurements reached 75% of the permitted daily average flow limit for at least three consecutive months and to obtain necessary authorization from the Commission to commence construction of the necessary additional treatment and/or collection units when reaching 90% of the permitted flow for at least three consecutive months, in violation of 30 TEX. ADMIN. CODE § 305.126(a) and TPDES Permit No. WQ0013168001, Operational Requirements No. 8.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to provide accurate flow measurements that conform to those prescribed in the Water Measurements Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C. or methods that are equivalent as approved by the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 305.125 and 319.11(d), TPDES Permit No. WQ0013168001, Monitoring and Reporting Requirements No. 1.
5. 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.
6. An administrative penalty in the amount of Forty-Seven Thousand One Hundred Eighty-Two Dollars (\$47,182) 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. The Respondent has paid Twenty-Three Thousand Five Hundred Ninety-One Dollars (\$23,591) of the

administrative penalty, and Twenty-Three Thousand Five Hundred Ninety-One Dollars (\$23,591) 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-Seven Thousand One Hundred Eighty-Two Dollars (\$47,182) as set forth in Section II, Paragraph 6 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: Woodmark Utilities, Inc., Docket No. 2012-0647-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 6 above, Twenty-Three Thousand Five Hundred Ninety-One Dollars (\$23,591) 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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all Facility operational procedures are properly accomplished, including procedures for the prevention of the unauthorized discharge of sewage sludge into water in the state and accurate flow measurements, in accordance with TPDES Permit No. WQ0013168001, Permit Conditions No. 2.d;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.a, as described in Ordering Provision No. 3.i below;

- c. Within 45 days after the effective date of this Agreed Order, complete remediation of the receiving stream by removing and disposing of sludge and related materials ("removed materials") from the impacted portions of the receiving stream. Disposal of any removed materials shall be carried out in accordance with all applicable rules of the TCEQ and in a manner that prevents contamination of surface or groundwater. The Facility shall maintain written records of the location, nature and amount of each type of sludge or other deposits removed, the technique used for removal and transport, and the ultimate disposal site;
- d. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.c, as described in Ordering Provision No. 3.i below;
- e. Within 60 days after the effective date of this Agreed Order, develop and implement a solids management plan ("SMP"). The SMP shall outline a program of internal process control testing to monitor the efficiency of the wastewater treatment plant and to maintain the proper solids balance within the system. The plan shall be prepared by a Texas registered professional engineer. At a minimum, the plan shall include the following items:
 - i. A schedule for performing the following process control analyses and recommended ranges to be maintained: mixed liquor thirty-minute sludge settleability, mixed liquor suspended solids, mixed liquor dissolved oxygen concentration, clarifier sludge blanket depth, and residual chlorine concentration;
 - ii. Procedures outlining actions to be taken in the event that any of the above process control analyses fall outside the recommended range; and
 - iii. Specific sampling locations for the above stated process control measurements;

Organized, written records of the process control analyses shall be maintained for a period of three years at the Facility in a daily log book and shall be made available to TCEQ representatives upon request.
- f. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.e, as described in Ordering Provision No. 3.i below;
- g. Respond completely and adequately, as determined by TCEQ, to any requests for information and/or address any deficiencies identified by the TCEQ concerning permit applications to complete installation and construction of operational units described in the Facility expansion plan within 30 days after the date of such requests or by any other deadline specified in writing to:

Water Quality Division, Wastewater Permitting Section, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- h. Within 300 days after the effective date of this Agreed Order, submit written certification of compliance with all permit requirements of TPDES Permit No. WQ0013168001, including specific corrective actions that were implemented at the Facility to achieve compliance with all permit requirements, including the prevention of the discharge of sewage sludge into water in the state, as described in Ordering Provision No. 3.i below; and
- i. The certifications required by Ordering Provision Nos. 3.b, 3.d, 3.f, and 3.h shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with all permit requirements and to complete remediation of the receiving stream, and shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certifications shall be submitted to:

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

with a copy to:

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

- 4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

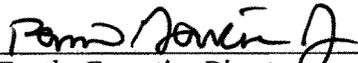
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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


For the Executive Director

5/20/13
Date

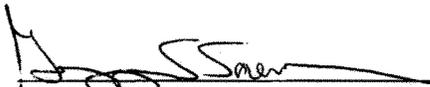
I, the undersigned, have read and understand the attached Agreed Order in the matter of Woodmark Utilities, Inc. I am authorized to agree to the attached Agreed Order on behalf of Woodmark Utilities, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, Woodmark Utilities, Inc. 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.


Signature

May 7, 2013
Date

Gregory S. Sorenson
Name (Printed or typed)
Authorized Representative of
Woodmark Utilities, Inc.

VP's GM
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: 2012-0647-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Woodmark Utilities, Inc.

Penalty Amount: Forty-Seven Thousand One Hundred Eighty-Two Dollars (\$47,182)

SEP Amount: Twenty-Three Thousand Five Hundred Ninety-One Dollars (\$23,591)

Type of SEP: Contribution to a Third-Party Pre-Approved SEP

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”) - Water or Wastewater Treatment Assistance

Location of SEP: Smith County; Neches and Sabine River Basins; Carrizo-Wilcox Aquifer

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

1. Project Description

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of RC&D to be used for the Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
Attention: Ken Awtrey
P.O. Box 635067
Nacogdoches, Texas 75961

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP 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 amount.

Woodmark Utilities, Inc.
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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