

Executive Summary – Enforcement Matter – Case No. 47832

City of Sulphur Springs

RN102076965

Docket No. 2013-1936-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Sulphur Springs Plant, 360 Thomas Road, south of the St. Louis Southwestern Railroad approximately 7,000 feet northeast of the intersection of IH 30 and Farm-to-Market Road 1870, Hopkins County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 28, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,250

Amount Deferred for Expedited Settlement: \$4,050

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: \$16,200

Name of SEP: Caddo Lake Institute Texas, Inc.

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 47832
City of Sulphur Springs
RN102076965
Docket No. 2013-1936-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: September 11, 2013
Date(s) of NOE(s): September 20, 2013

Violation Information

Failed to comply with permitted effluent limits for total suspended solids, ammonia nitrogen, chlorine residual, and 5-day carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010372001 Effluent Limitations and Monitoring Requirements Nos. 1 and 2].

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 the Respondent to, within 180 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010372001, including specific corrective actions 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: Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Executive Summary – Enforcement Matter – Case No. 47832
City of Sulphur Springs
RN102076965
Docket No. 2013-1936-MWD-E

Respondent: The Honorable John Sellers, Mayor, City of Sulphur Springs, 125 Davis Street South, Sulphur Springs, Texas 75482

Marc Maxwell, City Manager, City of Sulphur Springs, 125 Davis Street South, Sulphur Springs, Texas 75482

Respondent's Attorney: Brad Castleberry, Lloyd Gosselink Rochelle & Townsend, 816 Congress Avenue, Suite 1900, Austin, Texas 78701

Attachment A
Docket Number: 2013-1936-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Sulphur Springs
Penalty Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
SEP Offset Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Caddo Lake Institute Texas, Inc.
Project Name:	<i>Caddo Lake Watershed Enhanced Monitoring Program</i>
Location of SEP:	Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, Hopkins, Cass and Gregg Counties

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

1. Project Description

a. Project

Respondent shall contribute the SEP offset Amount to the Third-Party Administrator named above. The contribution will be to Caddo Lake Institute (CLI) for the *Caddo Lake Watershed Enhanced Monitoring Program* to be used as set forth in an agreement between the Third-Party Administrator and the TCEQ. Specifically, SEP funds will be used for increased water quality monitoring and contaminant sampling for use in evaluating risks to water in Caddo Lake and other water bodies in the Cypress Creek basin, comprising the Caddo Lake watershed. This project will supplement and enhance existing monitoring and contaminant sampling within the Cypress Creek basin. Depending upon the amount of funding available, SEP funds may be used to increase the frequency of samples taken and analyzed from existing monitoring sites, expand the types of monitoring done for existing sites, fund monitoring at other locations, or fund other types of environmental sampling for contaminants that enter waters of the State. All monitoring paid for with SEP Funds will be conducted under a TCEQ-approved Quality Assurance Project Plan (QAPP). Analysis of all data collected will comply with state laws and rules regarding use of certified or accredited testing laboratories (e.g., 30 Texas Administrative Code, Chapter 25, relating to Environmental Testing Laboratory Accreditation and Certification, as amended). Additionally, the data will be posted on

the following website: <http://www.caddolakeinstitute.us>. This SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED") be applied to another pre-approved SEP.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The Caddo Lake wetland ecosystem is a large, shallow, wetland complex located at the bottom of the Cypress Creek watershed in Texas and Louisiana. Composed of one of the largest remaining cypress-tupelo communities in the region, these wetlands exhibit high biodiversity of plants and animals and are a vital sports fishery and waterfowl/songbird migratory habitat that is a key link in flyways stretching from South America to the Arctic. The environmental benefit of the project is to provide essential data on pollutants in this critical watershed.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Caddo Lake Institute SEP** and shall mail the contribution with a copy of the Agreed Order to:

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

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full

payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
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 Offset Amount and submittal of the required reporting described in Section 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

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 the reimbursement of a SEP. The check shall be made payable to "Texas Commission on Environmental Quality," and be mail it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Sep-2013	Screening	11-Oct-2013	EPA Due	5-Dec-2013
	PCW	13-Dec-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Sulphur Springs
Reg. Ent. Ref. No.	RN102076965
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	47832	No. of Violations	1
Docket No.	2013-1936-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **35.0%** Enhancement **Subtotals 2, 3, & 7** **\$5,250**

Notes: Enhancement for seven months of self-reported effluent violations.

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 **\$1,092**
 Approx. Cost of Compliance **\$10,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$20,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$20,250**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$20,250**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$4,050**

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$16,200**

Screening Date 11-Oct-2013

Docket No. 2013-1936-MWD-E

PCW

Respondent City of Sulphur Springs

Policy Revision 3 (September 2011)

Case ID No. 47832

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102076965

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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>)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 35%

>> 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 seven months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 11-Oct-2013

Docket No. 2013-1936-MWD-E

PCW

Respondent City of Sulphur Springs

Policy Revision 3 (September 2011)

Case ID No. 47832

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102076965

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010372001 Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted September 11, 2013, and as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen and five-day carbonaceous biochemical oxygen demand to determine whether the discharged amounts exceeded levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4, 184 Number of violation days

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

Violation Base Penalty \$15,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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 \$1,092

Violation Final Penalty Total \$20,250

This violation Final Assessed Penalty (adjusted for limits) \$20,250

Economic Benefit Worksheet

Respondent City of Sulphur Springs
Case ID No. 47832
Reg. Ent. Reference No. RN102076965
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	31-Jul-2012	6-Oct-2014	2.18	\$1,092	n/a	\$1,092

Notes for DELAYED costs

Estimated cost to make necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. 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

\$1,092

EFFLUENT VIOLATION TABLE
City of Sulphur Springs
TPDES Permit No. WQ0010372001
Docket No. 2013-1936-MWD-E

Permitted Effluent Limits	Monitoring Period					
	July 2012	November 2012	December 2012	January 2013	April 2013	May 2013
CBOD ₅ Daily Average Concentration Limit = 5 mg/L	c	c	c	c	5.69	6.48
Chlorine Residual Limit = 1 mg/L	0.3	c	c	c	c	c
Ammonia Nitrogen Daily Average Concentration Limit = 2 mg/L	2.38	2.98	2.67	2.43	c	c
Ammonia Nitrogen Daily Maximum Concentration Limit = 7 mg/L	c	c	c	c	7.8	c
TSS Daily Average Concentration Limit = 12 mg/L	c	c	c	c	13.29	12.75
TSS Daily Maximum Concentration Limit = 20 mg/L	103.6	c	c	c	76.0	73.0

TSS = total suspended solids

CBOD₅ = five-day carbonaceous biochemical oxygen demand

c = compliant

mg/L = milligrams per liter

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 CN600696983, RN102076965, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600696983, City of Sulphur Springs **Classification:** SATISFACTORY **Rating:** 0.54

Regulated Entity: RN102076965, SULPHUR SPRINGS PLANT **Classification:** SATISFACTORY **Rating:** 1.85

Complexity Points: 8 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 360 Thomas Road, south of the St. Louis Southwestern Railroad approximately 7,000 feet northeast of the intersection of Interstate Highway 30 and Farm-to-Market Road 1870, Hopkins County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s):

WASTEWATER PERMIT WQ0010372001

WASTEWATER EPA ID TX0058955

WASTEWATER AUTHORIZATION R10372001

PRETREATMENT EPA ID TX0058955000

PRETREATMENT PERMIT WQ0010372001

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: November 19, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 19, 2008 to November 19, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Lanae Foard

Phone: (512) 239-2554

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:

N/A

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 11, 2008	(729512)
Item 2	February 17, 2009	(752737)
Item 3	March 11, 2009	(752738)
Item 4	May 19, 2009	(810770)

Item 5	June 12, 2009	(810771)
Item 6	August 13, 2009	(810772)
Item 7	September 11, 2009	(810773)
Item 8	December 09, 2009	(810775)
Item 9	March 15, 2010	(832996)
Item 10	April 14, 2010	(832997)
Item 11	May 13, 2010	(832998)
Item 12	June 16, 2010	(846926)
Item 13	July 12, 2010	(867678)
Item 14	August 05, 2010	(842416)
Item 15	August 09, 2010	(867679)
Item 16	September 17, 2010	(874647)
Item 17	November 19, 2010	(888701)
Item 18	December 10, 2010	(897048)
Item 19	February 14, 2011	(927257)
Item 20	April 13, 2011	(927259)
Item 21	July 15, 2011	(953401)
Item 22	August 12, 2011	(960036)
Item 23	August 22, 2011	(949234)
Item 24	September 14, 2011	(966088)
Item 25	November 14, 2011	(978273)
Item 26	November 28, 2011	(963026)
Item 27	January 10, 2012	(991351)
Item 28	February 14, 2012	(998711)
Item 29	March 23, 2012	(1004235)
Item 30	May 10, 2012	(1017171)
Item 31	June 11, 2012	(1024956)
Item 32	June 25, 2012	(1013437)
Item 33	September 10, 2012	(1047607)
Item 34	October 11, 2012	(1064804)
Item 35	November 13, 2012	(1064805)
Item 36	November 14, 2012	(1043518)
Item 37	March 11, 2013	(1090081)
Item 38	April 24, 2013	(1096467)
Item 39	August 13, 2013	(1125752)

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: 11/30/2012 (1064806) CN600696983
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: 12/31/2012 (1080615) CN600696983
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: 01/31/2013 (1080614) CN600696983
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: 04/30/2013 (1107417) CN600696983
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

5	Date: 05/31/2013 (1111068)	CN600696983	
	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: 06/30/2013 (1117955)	CN600696983	
	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: 08/31/2013 (1130302)	CN600696983	
	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 SULPHUR SPRINGS
RN102076965

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2013-1936-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Sulphur Springs ("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. Brad Castleberry of the law firm of Lloyd Gosselink Rochelle & Townsend, together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 360 Thomas Road, south of the St. Louis Southwestern Railroad approximately 7,000 feet northeast of the intersection of Interstate Highway 30 and Farm-to-Market Road 1870 in Hopkins County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 25, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty Thousand Two Hundred Fifty Dollars (\$20,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Four Thousand Fifty Dollars (\$4,050) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Sixteen Thousand Two Hundred Dollars (\$16,200) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010372001 Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on September 11, 2013, and shown in the violation table below:

EFFLUENT VIOLATION TABLE						
Permitted Effluent Limits	Monitoring Period					
	July 2012	November 2012	December 2012	January 2013	April 2013	May 2013
CBOD ₅ Daily Average Concentration Limit = 5 mg/L	c	c	c	c	5.69	6.48
Chlorine Residual Limit = 1 mg/L	0.3	c	c	c	c	c
Ammonia Nitrogen Daily Average Concentration Limit = 2 mg/L	2.38	2.98	2.67	2.43	c	c
Ammonia Nitrogen Daily Maximum Concentration Limit = 7 mg/L	c	c	c	c	7.8	c
TSS Daily Average Concentration Limit = 12 mg/L	c	c	c	c	13.29	12.75
TSS Daily Maximum Concentration Limit = 20 mg/L	103.6	c	c	c	76.0	73.0

TSS = total suspended solids

CBOD₅ = five-day carbonaceous biochemical oxygen demand

c = compliant

mg/L = milligrams per liter

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: City of Sulphur Springs, Docket No. 2013-1936-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 I, Paragraph 6 above, Sixteen Thousand Two Hundred Dollars (\$16,200) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that, within 180 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010372001, 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 include detailed supporting documentation to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Jovic
For the Executive Director

4/3/14
Date

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

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

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

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

[Signature]
Signature

Jan 6, 2014
Date

Max Maxwell
Name (Printed or typed)
Authorized Representative of
City of Sulphur Springs

City Manager
Title

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

Attachment A
Docket Number: 2013-1936-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Sulphur Springs
Penalty Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
SEP Offset Amount:	Sixteen Thousand Two Hundred Dollars (\$16,200)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Caddo Lake Institute Texas, Inc.
Project Name:	<i>Caddo Lake Watershed Enhanced Monitoring Program</i>
Location of SEP:	Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, Hopkins, Cass and Gregg Counties

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

1. Project Description

a. Project

Respondent shall contribute the SEP offset Amount to the Third-Party Administrator named above. The contribution will be to Caddo Lake Institute (CLI) for the *Caddo Lake Watershed Enhanced Monitoring Program* to be used as set forth in an agreement between the Third-Party Administrator and the TCEQ. Specifically, SEP funds will be used for increased water quality monitoring and contaminant sampling for use in evaluating risks to water in Caddo Lake and other water bodies in the Cypress Creek basin, comprising the Caddo Lake watershed. This project will supplement and enhance existing monitoring and contaminant sampling within the Cypress Creek basin. Depending upon the amount of funding available, SEP funds may be used to increase the frequency of samples taken and analyzed from existing monitoring sites, expand the types of monitoring done for existing sites, fund monitoring at other locations, or fund other types of environmental sampling for contaminants that enter waters of the State. All monitoring paid for with SEP Funds will be conducted under a TCEQ-approved Quality Assurance Project Plan (QAPP). Analysis of all data collected will comply with state laws and rules regarding use of certified or accredited testing laboratories (e.g., 30 Texas Administrative Code, Chapter 25, relating to Environmental Testing Laboratory Accreditation and Certification, as amended). Additionally, the data will be posted on

the following website: <http://www.caddolakeinstitute.us>. This SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED") be applied to another pre-approved SEP.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The Caddo Lake wetland ecosystem is a large, shallow, wetland complex located at the bottom of the Cypress Creek watershed in Texas and Louisiana. Composed of one of the largest remaining cypress-tupelo communities in the region, these wetlands exhibit high biodiversity of plants and animals and are a vital sports fishery and waterfowl/songbird migratory habitat that is a key link in flyways stretching from South America to the Arctic. The environmental benefit of the project is to provide essential data on pollutants in this critical watershed.

c. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Caddo Lake Institute SEP** and shall mail the contribution with a copy of the Agreed Order to:

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

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full

payment of the SEP Offset Amount to the Third-Party Administrator. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
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 Offset Amount and submittal of the required reporting described in Section 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

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 the reimbursement of a SEP. The check shall be made payable to "Texas Commission on Environmental Quality," and be mail it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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