**Executive Summary – Enforcement Matter – Case No. 47732**
**City of Caddo Mills**
**RN104798681**
**Docket No. 2013-1857-MWD-E**

**Order Type:**
1660 Agreed Order
**Findings Order Justification:**
N/A
**Media:**
MWD
**Small Business:**
No
**Location(s) Where Violation(s) Occurred:**
City of Caddo Mills WWTP, located approximately 2,100 feet west of the intersection of Farm-to-Market Road 36 and Farm-to-Market Road 1903, Caddo Mills, Hunt 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 7, 2014
**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** $16,312
**Amount Deferred for Expedited Settlement:** $3,262
**Amount Deferred for Financial Inability to Pay:** $0
**Total Paid to General Revenue:** $13,050
**Total Due to General Revenue:** $0
Payment Plan: N/A
**SEP Conditional Offset:** $0
Name of SEP: N/A
**Compliance History Classifications:**
Person/CN - Satisfactory
Site/RN - Satisfactory
**Major Source:** No
**Statutory Limit Adjustment:** N/A
**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 47732**
**City of Caddo Mills**
**RN104798681**
**Docket No. 2013-1857-MWD-E**

## *Investigation Information*

**Complaint Date(s):** N/A
**Complaint Information**: N/A
**Date(s) of Investigation:** August 23, 2013
**Date(s) of NOE(s):** September 10, 2013

## *Violation Information*

Failed to comply with permitted effluent limitations for total suspended solids, pH and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010425002, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].

## *Corrective Actions/Technical Requirements*

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010425002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

## *Litigation Information*

**Date Petition(s) Filed:** N/A
**Date Answer(s) Filed:** N/A
**SOAH Referral Date:** N/A
**Hearing Date(s):** N/A
**Settlement Date:** N/A

## *Contact Information*

**TCEQ Attorney:** N/A
**TCEQ Enforcement Coordinator:** Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
**TCEQ SEP Coordinator**: N/A
**Respondent:** Paul Miller, Public Works Director, City of Caddo Mills, P.O. Box 490, Caddo Mills, Texas 75135
Matt McMahan, City Manager, City of Caddo Mills, P.O. Box 490, Caddo Mills, Texas 75135
**Respondent's Attorney:** N/A

# Penalty Calculation Worksheet (PCW)

*Policy Revision 3 (September 2011)* *PCW Revision August 3, 2011*

TCEQ

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 16-Sep-2013 | | | | |
| PCW | 23-Sep-2013 | Screening | 30-Sep-2013 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | City of Caddo Mills | | |
| Reg. Ent. Ref. No. | RN104798681 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 47732 | No. of Violations | 2 |
| Docket No. | 2013-1857-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Jacquelyn Green |
| | | 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* **$11,250**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** **45.0%** Enhancement *Subtotals 2, 3, & 7* **$5,062**

Notes: Enhancement for five months of self-reported effluent violations and one order 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* **$0**

**Economic Benefit** **0.0%** Enhancement* *Subtotal 6* **$0**

Total EB Amounts $901
Approx. Cost of Compliance $10,000
*Capped at the Total EB $ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **$16,312**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **$16,312**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **$16,312**

**DEFERRAL** **20.0%** Reduction *Adjustment* **-$3,262**

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** **$13,050**

**Screening Date** 30-Sep-2013 **Docket No.** 2013-1857-MWD-E **PCW**

**Respondent** City of Caddo Mills

**Case ID No.** 47732

**Reg. Ent. Reference No.** RN104798681

**Media [Statute]** Water Quality

**Enf. Coordinator** Jacquelyn Green

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

# 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 (*number of NOVs meeting criteria*) | 5 | 25% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*) | 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 (*number of counts*) | 0 | 0% |
| Emissions | Chronic excessive emissions events (*number of events*) | 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 *(number of audits for which notices were submitted)* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*) | 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)*** 45%

## >> 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 five months of self-reported effluent violations and one order with denial of liability.

***Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)*** 45%

## >> Final Compliance History Adjustment

***Final Adjustment Percentage*** ****capped at 100%*** 45%

| | | | |
|---|---|---|---|
| **Screening Date** | 30-Sep-2013 | **Docket No.** 2013-1857-MWD-E | **PCW** |
| **Respondent** | City of Caddo Mills | | *Policy Revision 3 (September 2011)* |
| **Case ID No.** | 47732 | | *PCW Revision August 3, 2011* |
| **Reg. Ent. Reference No.** | RN104798681 | | |
| **Media [Statute]** | Water Quality | | |
| **Enf. Coordinator** | Jacquelyn Green | | |

**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 ("TPDES") Permit No. WQ0010425002, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

**Violation Description** Failed to comply with permitted effluent limitations, as documented in a record review conducted on September 10, 2013 and shown in the attached violation table.

**Base Penalty** $25,000

## >> Environmental, Property and Human Health Matrix

| OR | Release | Harm: Major | Moderate | Minor |
|---|---|---|---|---|
| | Actual | | | x |
| | Potential | | | |

**Percent** 5.0%

## >>Programmatic Matrix

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

**Percent** 0.0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do 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 3 | 213 Number of violation days

*mark only one with an x*

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

**Violation Base Penalty** $3,750

Three quarterly events are recommended for the quarters containing the months of August, September, and October 2012 and January, February, March and April 2013.

## 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** $3,750

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $901

## Statutory Limit Test

**Violation Final Penalty Total** $5,438

**This violation Final Assessed Penalty (adjusted for limits)** $5,438

# Economic Benefit Worksheet

**Respondent** City of Caddo Mills
**Case ID No.** 47732
**Reg. Ent. Reference No.** RN104798681
**Media** Water Quality
**Violation No.** 1

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

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **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-Aug-2012 | 20-Jun-2014 | 1.80 | $901 | n/a | $901 |

**Notes for DELAYED costs**: Estimated cost to evaluate the cause of non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the anticipated 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** $901

| | | | |
|---|---|---|---|
| **Screening Date** | 30-Sep-2013 | **Docket No.** 2013-1857-MWD-E | **PCW** |
| **Respondent** | City of Caddo Mills | | *Policy Revision 3 (September 2011)* |
| **Case ID No.** | 47732 | | *PCW Revision August 3, 2011* |
| **Reg. Ent. Reference No.** | RN104798681 | | |
| **Media [Statute]** | Water Quality | | |
| **Enf. Coordinator** | Jacquelyn Green | | |

**Violation Number** 2

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010425002, Effluent Limitations and Monitoring Requirements No. 1

**Violation Description** Failed to comply with permitted effluent limitations, as documented in a record review conducted on September 10, 2013 and shown in the attached violation table.

**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 | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0.0%

Matrix Notes: Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

**Adjustment** $21,250

$3,750

## Violation Events

Number of Violation Events 2 | 61 Number of violation days

*mark only one with an x*

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

**Violation Base Penalty** $7,500

Two monthly events are recommended for the monitoring periods ending April 30, 2013 and May 31, 2013.

## Good Faith Efforts to Comply

0.0% Reduction $0

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

Notes: The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** $7,500

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $0

## Statutory Limit Test

**Violation Final Penalty Total** $10,875

**This violation Final Assessed Penalty (adjusted for limits)** $10,875

# Economic Benefit Worksheet

**Respondent** City of Caddo Mills
**Case ID No.** 47732
**Reg. Ent. Reference No.** RN104798681
**Media** Water Quality
**Violation No.** 2

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| | No commas or $ | | | | | | |
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.00 | $0 | $0 | $0 |
| Buildings | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.00 | $0 | $0 | $0 |
| Land | | | | 0.00 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.00 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.00 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.00 | $0 | n/a | $0 |
| Permit Costs | | | | 0.00 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.00 | $0 | n/a | $0 |
| Notes for DELAYED costs | See Violation No. 1. | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.00 | $0 | $0 | $0 |
| Personnel | | | | 0.00 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.00 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.00 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.00 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.00 | $0 | $0 | $0 |
| Notes for AVOIDED costs | | | | | | | |

Approx. Cost of Compliance: $0

TOTAL: $0

**City of Caddo Mills**
**TPDES Permit No. WQ0010425002**
**Docket No. 2013-1857-MWD-E**

| Months: | *E. coli* Single Grab | pH Minimum | TSS Daily Avg. Conc. |
|---|---|---|---|
| | Limit= 394 CFU/ 100 mL | Limit= 6.0 standard units | Limit= 15 mg/L |
| **August 2012** | c | c | 15.6 |
| **September 2012** | c | c | 18.4 |
| **October 2012** | c | 5.7 | c |
| **January 2013** | c | c | 15.9 |
| **February 2013** | c | 5.6 | 27 |
| **March 2013** | c | c | 19.6 |
| **April 2013** | 1,733 | c | 19.2 |
| **May 2013** | 2,419 | c | c |

TSS = Total Suspended Solids
*E. coli* = *Escherichia coli*
CFU/100 mL = Colony Forming Units Per 100 Milliliters
Conc. = Concentration
Avg. = Average
mg/L = Milligrams per Liter
c = Compliant

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 CN600672752, RN104798681, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

| | | | |
|---|---|---|---|
| **Customer, Respondent, or Owner/Operator:** | CN600672752, City of Caddo Mills | **Classification:** SATISFACTORY | **Rating:** 4.38 |
| **Regulated Entity:** | RN104798681, CITY OF CADDO MILLS WWTP 2 | **Classification:** SATISFACTORY | **Rating:** 6.18 |
| **Complexity Points:** | 7 | **Repeat Violator:** NO | |
| **CH Group:** | 08 - Sewage Treatment Facilities | | |
| **Location:** | Approximately 2,100 feet west of the intersection of Farm-to-Market Road 36 and Farm-to-Market Road 1903 in Hunt County, Texas | | |
| **TCEQ Region:** | REGION 04 - DFW METROPLEX | | |

**ID Number(s):**
**WASTEWATER** PERMIT WQ0010425002 **WASTEWATER** EPA ID TX0128392

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

**Date Compliance History Report Prepared:** November 20, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 20, 2008 to November 20, 2013

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

**Name:** Jacquelyn Green **Phone:** (512) 239-2587

## Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period? YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3) If **YES** for #2, who is the current owner/operator? N/A
4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
5) If **YES**, when did the change(s) in owner or operator occur? N/A

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

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

1 Effective Date: 06/20/2011 ADMINORDER 2010-1901-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

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

| | | | | | |
|---|---|---|---|---|---|
| Item 1 | May 06, 2010 | (801154) | Item 13 | January 19, 2012 | (992836) |
| Item 2 | August 19, 2010 | (869204) | Item 14 | February 07, 2012 | (1000182) |
| Item 3 | November 17, 2010 | (890036) | Item 15 | May 16, 2012 | (1018639) |
| Item 4 | December 20, 2010 | (898450) | Item 16 | June 07, 2012 | (1026368) |
| Item 5 | January 11, 2011 | (904293) | Item 17 | July 12, 2012 | (1033694) |
| Item 6 | February 07, 2011 | (911174) | Item 18 | August 10, 2012 | (1040250) |
| Item 7 | July 20, 2011 | (954835) | Item 19 | December 10, 2012 | (1070794) |
| Item 8 | August 16, 2011 | (961418) | Item 20 | January 02, 2013 | (1083636) |
| Item 9 | September 14, 2011 | (967547) | Item 21 | July 17, 2013 | (1119446) |
| Item 10 | October 12, 2011 | (973482) | Item 22 | August 28, 2013 | (1127195) |
| Item 11 | November 03, 2011 | (979607) | Item 23 | September 11, 2013 | (1131728) |
| Item 12 | December 06, 2011 | (986463) | | | |

## 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: 01/31/2013 (1083635) CN600672752
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: 02/28/2013 (1091551) CN600672752
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: 03/31/2013 (1097895) CN600672752
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 (1108930) CN600672752
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 (1112486) CN600672752
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** | **§** | **BEFORE THE** |
| **ENFORCEMENT ACTION** | **§** | |
| **CONCERNING** | **§** | **TEXAS COMMISSION ON** |
| **CITY OF CADDO MILLS** | **§** | |
| **RN104798681** | **§** | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2013-1857-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 Caddo Mills ("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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 2,100 feet west of the intersection of Farm-to-Market Road 36 and Farm-to-Market Road 1903 in Hunt 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 15, 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 Sixteen Thousand Three Hundred Twelve Dollars ($16,312) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirteen Thousand Fifty Dollars

($13,050) of the administrative penalty and Three Thousand Two Hundred Sixty-Two Dollars ($3,262) 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.

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 limitations, 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. WQ0010425002, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented in a record review conducted on September 10, 2013 and shown in the violation table below:

| Months: | *E. coli* Single Grab | pH Minimum | TSS Daily Avg. Conc. |
|---|---|---|---|
| | Limit= 394 CFU/ 100 mL | Limit= 6.0 standard units | Limit= 15 mg/L |
| **August 2012** | c | c | 15.6 |
| **September 2012** | c | c | 18.4 |
| **October 2012** | c | 5.7 | c |
| **January 2013** | c | c | 15.9 |
| **February 2013** | c | 5.6 | 27 |
| **March 2013** | c | c | 19.6 |
| **April 2013** | 1,733 | c | 19.2 |
| **May 2013** | 2,419 | c | c |

TSS = Total Suspended Solids
*E. coli* = *Escherichia coli*
CFU/100 mL = Colony Forming Units Per 100 Milliliters
Conc. = Concentration
Avg. = Average
mg/L = Milligrams per Liter
c = Compliant

## 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 Caddo Mills, Docket No. 2013-1857-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. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010425002, 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 including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. 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.

7. 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.

8. 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 Domingo
For the Executive Director

5/26/14
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.

Matt McMahan
Signature

12-12-13
Date

Matt McMahan
Name (Printed or typed)
Authorized Representative of
City of Caddo Mills

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.