

**Executive Summary – Enforcement Matter – Case No. 48222**

**City of Ore City**

**RN101920122**

**Docket No. 2014-0173-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

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

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Ore City WWTF, located approximately 4300 feet northeast of the intersection of U.S. Highway 259 and Farm-to-Market Road 450, Upshur 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:** May 30, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$25,737

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$25,737

Name of SEP: Caddo Lake Institute Texas, Inc.

**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. 48222**

**City of Ore City**

**RN101920122**

**Docket No. 2014-0173-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 19, 2013

**Date(s) of NOE(s):** December 16, 2013

***Violation Information***

1. Failed to comply with permitted effluent limitations for ammonia nitrogen, total suspended solids, dissolved oxygen, 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. WQ0014389001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].
2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2013, by September 1, 2013 [30 TEX. ADMIN. CODE § 305.125(1) and (17), and TPDES Permit No. WQ0014389001, Sludge Provisions].
3. Failed to pay outstanding consolidated water quality late fees for TCEQ Financial Account No. 23005551 for Fiscal Year 2014 [30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent submitted the annual sludge report for the monitoring period ending July 31, 2013, by January 6, 2014.

**Technical Requirements:**

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
  - a. Within 30 days, pay all outstanding fees, including any associated penalties and interest; and
  - b. Within 180 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014389001, 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.

**Executive Summary – Enforcement Matter – Case No. 48222**

**City of Ore City**

**RN101920122**

**Docket No. 2014-0173-MWD-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Remington Burklund, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2611; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

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

**Respondent:** The Honorable Glenn Breazeale, Mayor, City of Ore City, P.O. Box 327, Ore City, Texas 75683

**Respondent's Attorney:** N/A



**Attachment A**

**Docket Number: 2014-0173-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Ore City</b>
<b>Penalty Amount:</b>	<b>Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737)</b>
<b>SEP Offset Amount:</b>	<b>Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Caddo Lake Institute Texas, Inc.</b>
<b>Project Name:</b>	<b><i>Caddo Lake Watershed Enhanced Monitoring Program</i></b>
<b>Location of SEP:</b>	<b>Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, Hopkins, Cass and Gregg Counties</b>

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

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP offset Amount to the Third-Party 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.

City of Ore City  
Agreed Order - Attachment A

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.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The 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 an important sports fishery and waterfowl / songbird migratory habitat that are a key link in flyways stretching from South America to the Arctic. The environmental benefit of the project is to provide essential data on pollutants in this critical watershed.

c. Minimum Expenditure

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

**2. Performance Schedule**

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

City of Ore City  
Agreed Order - Attachment A

Caddo Lake Institute  
707 Rio Grande, Suite 200  
Austin, Texas 78701

### **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full payment of the SEP Offset Amount and submittal of the required reporting described in Sections 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 the Respondent failed to fully implement and complete the Project, the 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, the 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; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

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

### **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the**

**settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	Assigned	13-Jan-2014	Screening	31-Jan-2014	EPA Due	
	PCW	7-Apr-2014				

## RESPONDENT/FACILITY INFORMATION

Respondent	City of Ore City		
Reg. Ent. Ref. No.	RN101920122		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	48222	No. of Violations	4
Docket No.	2014-0173-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Remington Burklund
		EC's Team	Enforcement Team 3

Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000
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## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$17,750</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>45.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$7,987</b>
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Notes: Enhancement for nine months of self-reported effluent violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$919
Approx. Cost of Compliance	\$10,050

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$25,737</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$25,737</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$25,737</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$25,737</b>
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Screening Date 31-Jan-2014

Docket No. 2014-0173-MWD-E

PCW

Respondent City of Ore City

Policy Revision 3 (September 2011)

Case ID No. 48222

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101920122

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

### 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> )	9	45%
	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)** 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 nine months of self-reported effluent violations.

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

>> Final Compliance History Adjustment

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

Screening Date 31-Jan-2014  
 Respondent City of Ore City  
 Case ID No. 48222

Docket No. 2014-0173-MWD-E

PCW

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

Reg. Ent. Reference No. RN101920122  
 Media [Statute] Water Quality  
 Enf. Coordinator Remington Burklund  
 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. WQ0014389001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description

Failed to comply with permitted effluent limitations, as documented during a record review conducted on November 19, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	5.0%
	Potential				

>>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and dissolved oxygen were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 Number of violation days 92

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 for the quarters containing the months of April 2013, May 2013, and August 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$918 Violation Final Penalty Total \$3,625

This violation Final Assessed Penalty (adjusted for limits) \$3,625

# Economic Benefit Worksheet

**Respondent** City of Ore City  
**Case ID No.** 48222  
**Reg. Ent. Reference No.** RN101920122  
**Media** Water Quality  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	30-Apr-2013	1-Mar-2015	1.84	\$918	n/a	\$918

Notes for DELAYED costs

Estimated cost to determine the cause of non-compliance and to make any necessary adjustments/repairs to the Facility to return to compliance with permitted effluent limitations. Date required is the initial date of non-compliance. Final date is the expected date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**

\$918

Screening Date 31-Jan-2014  
 Respondent City of Ore City  
 Case ID No. 48222

Docket No. 2014-0173-MWD-E

PCW

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

Reg. Ent. Reference No. RN101920122  
 Media [Statute] Water Quality  
 Enf. Coordinator Remington Burklund  
 Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (17), and TPDES Permit No. WQ0014389001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2013, by September 1, 2013, as documented during a record review conducted on November 19, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1.0%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 152 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1 Violation Final Penalty Total \$363

This violation Final Assessed Penalty (adjusted for limits) \$363

# Economic Benefit Worksheet

**Respondent** City of Ore City  
**Case ID No.** 48222  
**Reg. Ent. Reference No.** RN101920122  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	1-Sep-2013	6-Jan-2014	0.35	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost to submit the annual sludge report. Date required is the date the annual sludge report was due. Final date is the date the sludge report was 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

\$50
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**TOTAL**

\$1
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Screening Date 31-Jan-2014

Docket No. 2014-0173-MWD-E

PCW

Respondent City of Ore City

Policy Revision 3 (September 2011)

Case ID No. 48222

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101920122

Media [Statute] Water Quality

Enf. Coordinator Remington Burklund

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0014389001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review conducted on November 19, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which exceed levels protective of human health or the environment.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2 Number of violation days 61

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

Violation Base Penalty \$15,000

Two monthly events are recommended for the months of June 2013 and July 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 \$15,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$21,750

This violation Final Assessed Penalty (adjusted for limits) \$21,750

# Economic Benefit Worksheet

**Respondent** City of Ore City

**Case ID No.** 48222

**Reg. Ent. Reference No.** RN101920122

**Media** Water Quality

**Violation No.** 3

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

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

Screening Date 31-Jan-2014

Docket No. 2014-0173-MWD-E

PCW

Respondent City of Ore City

Policy Revision 3 (September 2011)

Case ID No. 48222

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101920122

Media [Statute] Water Quality

Enf. Coordinator Remington Burkland

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 21.4 and Tex. Water Code § 5.702

Violation Description Failed to pay outstanding consolidated water quality late fees for TCEQ Financial Account No. 23005551 for Fiscal Year 2014, as documented during a record review conducted on January 31, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

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

Matrix Notes

Adjustment \$25,000

\$0

Violation Events

Number of Violation Events [ ] Number of violation days [ ]

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event. Includes instruction: mark only one with an x.

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next billing cycle.

Good Faith Efforts to Comply

Table for Good Faith Efforts to Comply with columns: Reduction (0.0%), Before NOV, NOV to EDRP/Settlement Offer.

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

# Economic Benefit Worksheet

**Respondent** City of Ore City  
**Case ID No.** 48222  
**Reg. Ent. Reference No.** RN101920122  
**Media** Water Quality  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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

N/A

**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

N/A

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

**City of Ore City**  
**Docket No. 2014-0173-MWD-E**  
**TPDES Permit No. WQ0014389001**

**Effluent Parameter Violation Table**

		<b>April 2013</b>	<b>May 2013</b>	<b>June 2013</b>	<b>July 2013</b>	<b>August 2013</b>
<b>NH3-N</b>	Daily Average Conc. Limit = 2 mg/L	c	8.6	7.4	22.3	9.5
<b>NH3-N</b>	Single Grab Conc. Limit = 15 mg/L	c	16.1	20	28.8	23.2
<b>NH3-N</b>	Daily Average Loading Limit = 3.6 lbs/day	c	c	c	6.79	4.22
<b>TSS</b>	Daily Average Conc. Limit = 15 mg/L	23	31.8	33	52.6	46
<b>TSS</b>	Single Grab Conc. Limit = 60 mg/L	c	c	c	90	72
<b>CBOD5</b>	Daily Average Conc. Limit = 7 mg/L	30	33	136	54.7	16.2
<b>CBOD5</b>	Single Grab Conc. Limit = 35 mg/L	64	67	226	127	c
<b>CBOD5</b>	Daily Average Loading Limit = 13 mg/L	c	c	66	c	c
<b>DO</b>	Daily Minimum Conc. Limit = 4.0 mg/L	c	3.7	c	c	c

NH3-N = Ammonia Nitrogen  
 CBOD5 = Carbonaceous Biochemical  
 Oxygen Demand (5-day)

c = compliant  
 TSS = Total Suspended Solids  
 Conc. = Concentration

mg/L = milligrams per liter  
 lbs/day = pounds per day  
 DO = Dissolved Oxygen



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 CN600635890, RN101920122, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600635890, City of Ore City **Classification:** SATISFACTORY **Rating:** 0.92

**Regulated Entity:** RN101920122, CITY OF ORE CITY **Classification:** SATISFACTORY **Rating:** 0.92

**Complexity Points:** 7 **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** Located approximately 4,300 feet northeast of the intersection of United States Highway 259 and Farm-to-Market Road 450 in Upshur County, Texas.

**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):**

WASTEWATER EPA ID TX0024236

WASTEWATER PERMIT WQ0014389001

WASTEWATER EPA ID TX0024236

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

**Date Compliance History Report Prepared:** February 25, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 25, 2009 to February 25, 2014

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

**Name:** Remington Burkland

**Phone:** (512) 239-2611

**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	March 18, 2009	(751127)
Item 2	April 24, 2009	(768984)
Item 3	May 18, 2009	(806785)
Item 4	June 18, 2009	(806786)
Item 5	July 20, 2009	(806787)

Item 6	September 21, 2009	(806789)
Item 7	October 26, 2009	(806790)
Item 8	December 21, 2009	(806792)
Item 9	January 15, 2010	(784752)
Item 10	January 20, 2010	(806793)
Item 11	February 16, 2010	(806784)
Item 12	March 24, 2010	(831631)
Item 13	April 22, 2010	(831632)
Item 14	April 23, 2010	(806788)
Item 15	May 19, 2010	(831633)
Item 16	June 17, 2010	(846500)
Item 17	July 21, 2010	(867110)
Item 18	August 16, 2010	(867111)
Item 19	September 17, 2010	(874168)
Item 20	November 17, 2010	(881767)
Item 21	December 17, 2010	(896530)
Item 22	January 05, 2011	(896529)
Item 23	January 24, 2011	(909334)
Item 24	March 14, 2011	(916593)
Item 25	April 18, 2011	(908730)
Item 26	April 25, 2011	(925555)
Item 27	April 26, 2011	(916592)
Item 28	May 23, 2011	(938287)
Item 29	July 05, 2011	(945658)
Item 30	July 18, 2011	(952901)
Item 31	September 26, 2011	(965601)
Item 32	October 20, 2011	(971640)
Item 33	November 14, 2011	(977806)
Item 34	November 18, 2011	(971639)
Item 35	December 20, 2011	(984571)
Item 36	February 09, 2012	(990863)
Item 37	February 21, 2012	(998234)
Item 38	March 23, 2012	(1003751)
Item 39	April 16, 2012	(1010319)
Item 40	May 29, 2012	(1016707)
Item 41	June 20, 2012	(1024446)
Item 42	June 29, 2012	(1015507)
Item 43	July 25, 2012	(1031824)
Item 44	August 30, 2012	(1038254)
Item 45	September 19, 2012	(1046955)
Item 46	October 15, 2012	(1061980)
Item 47	November 21, 2012	(1061981)
Item 48	December 27, 2012	(1061982)
Item 49	January 23, 2013	(1079520)
Item 50	February 22, 2013	(1079519)
Item 51	March 25, 2013	(1089569)
Item 52	June 14, 2013	(1098801)

**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: 03/31/2013 (1095962) CN600635890  
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: 04/30/2013 (1125216)  
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:	05/31/2013 (1110558)	CN600635890
	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:	06/30/2013 (1117448)	CN600635890
	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:	07/31/2013 (1125217)	
	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:	08/31/2013 (1129802)	
	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:	09/30/2013 (1135545)	CN600635890
	Self Report?	YES	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
8	Date:	10/31/2013 (1140935)	
	Self Report?	YES	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
9	Date:	11/30/2013 (1147404)	CN600635890
	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 ORE CITY  
RN101920122

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

**AGREED ORDER  
DOCKET NO. 2014-0173-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Ore City ("Respondent") under the authority of TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility located approximately 4,300 feet northeast of the intersection of United States Highway 259 and Farm-to-Market Road 450 in Upshur County, Texas (the "Facility").



## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with 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. WQ0014389001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the annual sludge report for the monitoring period ending July 31, 2013, by September 1, 2013, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17), and TPDES Permit No. WQ0014389001, Sludge Provisions.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to pay outstanding consolidated water quality late fees for TCEQ Financial Account No. 23005551 for Fiscal Year 2014, in violation of 30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702.
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 Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737) 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. Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737) 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 Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737) 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: City of Ore City, Docket No. 2014-0173-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737) 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, pay all outstanding fees, including any associated penalties and interest and with the notation "Re: City of Ore City, TCEQ Financial Account No. 23005551", 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

- b. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014389001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Pommo Manic J  
For the Executive Director

7/23/14  
Date

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

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

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

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

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

Glenn Breazeale  
Signature

4-29-2014  
Date

Glenn Breazeale, Mayor  
Name (Printed or typed)  
Authorized Representative of  
City of Ore City

Mayor  
Title

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



**Attachment A**  
**Docket Number: 2014-0173-MWD-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Ore City</b>
<b>Penalty Amount:</b>	<b>Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737)</b>
<b>SEP Offset Amount:</b>	<b>Twenty-Five Thousand Seven Hundred Thirty-Seven Dollars (\$25,737)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Caddo Lake Institute Texas, Inc.</b>
<b>Project Name:</b>	<b><i>Caddo Lake Watershed Enhanced Monitoring Program</i></b>
<b>Location of SEP:</b>	<b>Harrison, Marion, Wood, Upshur, Morris, Camp, Titus, Franklin, Hopkins, Cass and Gregg Counties</b>

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

**1. Project Description**

a. Project

The Respondent shall contribute the SEP offset Amount to the Third-Party 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.

City of Ore City  
Agreed Order - Attachment A

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.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The 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 an important sports fishery and waterfowl / songbird migratory habitat that are a key link in flyways stretching from South America to the Arctic. The environmental benefit of the project is to provide essential data on pollutants in this critical watershed.

c. Minimum Expenditure

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

**2. Performance Schedule**

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

City of Ore City  
Agreed Order - Attachment A

Caddo Lake Institute  
707 Rio Grande, Suite 200  
Austin, Texas 78701

### **3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

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

### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full payment of the SEP Offset Amount and submittal of the required reporting described in Sections 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 the Respondent failed to fully implement and complete the Project, the 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, the 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; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

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

### **5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the**

**settlement of an enforcement action brought by the TCEQ.** Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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