

Executive Summary – Enforcement Matter – Case No. 50886
West Wise Special Utility District
RN101190270
Docket No. 2015-1121-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

West Wise Rural WSC Water Plant, located at the corner of Farm-to-Market Road 1658 and Farm-to-Market Road 2952, Bridgeport, Wise County

Type of Operation:

Public water system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 13, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,500

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

Supplemental Environmental Project ("SEP") Conditional Offset: \$1,500

Name of SEP: Texoma Council on Governments (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - High

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 50886
West Wise Special Utility District
RN101190270
Docket No. 2015-1121-PWS-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 6, 2015 through July 17, 2015

Date(s) of NOE(s): July 17, 2015

Violation Information

1. Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5") [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to comply with the MCL of 0.080 milligrams per liter mg/L for total trihalomethanes ("TTHM") [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Within 365 days:
 - i. Return to compliance with the MCL for HAA5 based on the locational running annual average; and
 - ii. Return to compliance with the MCL for TTHM based on the locational running annual average.
3. Within 380 days, submit written certification to demonstrate compliance with a.

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Docket No. 2015-1121-PWS-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: Alejandro Laje, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-2547; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division,
MC 219, (512) 239-3565
Respondent: Betty J. Graves, President, West Wise Special Utility District, P.O. Box
566, Bridgeport, Texas 76426-0566
Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-1121-PWS-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	West Wise Special Utility District
Penalty Amount:	One Thousand Five Hundred Dollars (\$1,500)
SEP Offset Amount:	One Thousand Five Hundred Dollars (\$1,500)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texoma Council of Governments
Project Name:	<i>Household Hazardous Waste Collection Events</i>
Location of SEP:	Cooke, Fannin, & Grayson Counties; Red River, Trinity River, & Sulphur River Basins

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative 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 the **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all 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.

West Wise Special Utility District
Agreed Order - Attachment A

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

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region's rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

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 **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments
Attention: David Trout, Municipal Solid Waste Program Manager
1117 Gallagher Drive
Sherman, Texas 75090

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:

West Wise Special Utility District
Agreed Order - Attachment A

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 expenditure 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 and/or project, 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. **Recognition**

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 Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for 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 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	20-Jul-2015	Screening	22-Jul-2015	EPA Due	30-Sep-2015
	PCW	20-Aug-2015				

RESPONDENT/FACILITY INFORMATION			
Respondent	West Wise Special Utility District		
Reg. Ent. Ref. No.	RN101190270		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	50886	No. of Violations	2
Docket No.	2015-1121-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Greg Zychowski
		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,200
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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.

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$300
Notes	Enhancement for three NOVs with same/similar violation, one agreed order with denial of liability, and reduction for High Performer classification.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1,086	*Capped at the Total EB \$ Amount	
Estimated Cost of Compliance	\$6,900		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
	Final Penalty Amount
	\$1,500

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,500
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.
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PAYABLE PENALTY	\$1,500
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Screening Date 22-Jul-2015

Docket No. 2015-1121-PWS-E

PCW

Respondent West Wise Special Utility District

Policy Revision 4 (April 2014)

Case ID No. 50886

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101190270

Media [Statute] Public Water Supply

Enf. Coordinator Greg Zychowski

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>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 35%

Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with same/similar violation, one agreed order with denial of liability, and reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 22-Jul-2015

Docket No. 2015-1121-PWS-E

PCW

Respondent West Wise Special Utility District

Policy Revision 4 (April 2014)

Case ID No. 50886

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101190270

Media [Statute] Public Water Supply

Enf. Coordinator Greg Zychowski

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5"), based on the locational running annual average, as documented during a record review conducted from July 6, 2015 through July 17, 2015. Specifically, the running annual average concentrations of HAA5 for Stage 2 Disinfection Byproducts ("DBP2") were 0.090 mg/L at Site 1 and 0.089 mg/L for DBP2 at Site 2 for the second quarter of 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for HAA5 caused persons served by the Facility to be exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 2

91 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$600

Two annual events are recommended (one event per site).

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOE/NOV NOE/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 \$600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$750

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

Economic Benefit Worksheet

Respondent West Wise Special Utility District
Case ID No. 50886
Reg. Ent. Reference No. RN101190270
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed cost is captured in the Economic Benefit Worksheet for Violation No. 2.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 22-Jul-2015

Docket No. 2015-1121-PWS-E

PCW

Respondent West Wise Special Utility District

Policy Revision 4 (April 2014)

Case ID No. 50886

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101190270

Media [Statute] Public Water Supply

Enf. Coordinator Greg Zychowski

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the MCL of 0.080 mg/L for total trihalomethanes ("TTHM"), based on the locational running annual average, as documented during a record review conducted from July 6, 2015 through July 17, 2015. Specifically, the running annual average concentrations of TTHM for DBP2 were 0.150 mg/L at Site 1 for the second quarter of 2015; and 0.084 mg/L for the fourth quarter of 2014, 0.086 mg/L for the first quarter of 2015, and 0.152 mg/L for the second quarter of 2015 at Site 2.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 2

273 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$600

Two annual events are recommended (one event per site).

Good Faith Efforts to Comply

0.0%

Reduction

\$0

	Before NOE/NOV	NOE/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 \$600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,086

Violation Final Penalty Total \$750

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

Economic Benefit Worksheet

Respondent West Wise Special Utility District
Case ID No. 50886
Reg. Ent. Reference No. RN101190270
Media Public Water Supply
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	\$6,900	31-Dec-2014	31-Mar-2017	2.25	\$52	\$1,035	\$1,086
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

Delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCLs for HAA5 and TTHM, calculated from the last day of the first quarter of non-compliance to the estimated 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

\$6,900

TOTAL

\$1,086

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 CN601654254, RN101190270, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN601654254, West Wise Special Utility District
Classification: HIGH **Rating:** 0.00

Regulated Entity: RN101190270, West Wise Rural Water Supply Corporation Water Plant
Classification: NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: at the corner of Farm-to-Market Road 1658 and Farm-to-Market Road 2952 in Bridgeport, Wise County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2490016 **WATER LICENSING LICENSE** 2490016

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: July 21, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 21, 2010 to July 21, 2015

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

Name: Greg Zychowski

Phone: (512) 239-3158

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: 10/02/2011 ADMINORDER 2011-0438-WQ-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failed to prevent an unauthorized discharge of sewage, municipal waste, agricultural waste, or industrial waste into or adjacent to any water in the state.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WEST WISE SPECIAL UTILITY
DISTRICT
RN101190270**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2015-1121-PWS-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 West Wise Special Utility District (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. 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 public water system located at the corner of Farm-to-Market Road 1658 and Farm-to-Market Road 2952 in Bridgeport, Wise County, Texas

(the "Facility") that has approximately 1,237 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from July 6, 2015 through July 17, 2015, TCEQ staff documented that the locational running annual average concentrations of haloacetic acids ("HAA5") for Stage 2 Disinfection Byproducts ("DBP2") were 0.090 milligrams per liter ("mg/L") at Site 1 and 0.089 mg/L at Site 2 for the second quarter of 2015.
3. During a record review conducted from July 6, 2015 through July 17, 2015, TCEQ staff documented that the locational running annual average concentrations for total trihalomethanes ("TTHM") for DBP2 were 0.150 mg/L at Site 1 for the second quarter of 2015; and 0.084 mg/L for the fourth quarter of 2014, 0.086 mg/L for the first quarter of 2015, and 0.152 mg/L for the second quarter of 2015 at Site 2.
4. The Respondent received notice of the violations on or about July 22, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.060 mg/L for HAA5, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 0.080 milligrams per liter mg/L for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, 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.
5. An administrative penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). One Thousand Five Hundred Dollars (\$1,500) 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 One Thousand Five Hundred Dollars (\$1,500) as set forth in Section II, Paragraph 5 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: West Wise Special Utility District, Docket No. 2015-1121-PWS-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 5 above, One Thousand Five Hundred Dollars (\$1,500) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order,
 - i. Return to compliance with the MCL for HAA5, based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115; and
 - ii. Return to compliance with the MCL for TTHM, based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

with Ordering Provision Nos. 3.a.i. and 3.a.ii. 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:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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. 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. 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.
7. 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.

8. 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.
9. 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.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Ramona Marie J
For the Executive Director

3/16/16
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of West Wise Special Utility District. I am authorized to agree to the attached Agreed Order on behalf of West Wise Special Utility District, 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, West Wise Special Utility District 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.

Betty J. Graves
Signature

12-21-2015
Date

Betty J. Graves
Name (Printed or typed)
Authorized Representative of
West Wise Special Utility District

President
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: 2015-1121-PWS-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	West Wise Special Utility District
Penalty Amount:	One Thousand Five Hundred Dollars (\$1,500)
SEP Offset Amount:	One Thousand Five Hundred Dollars (\$1,500)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texoma Council of Governments
Project Name:	<i>Household Hazardous Waste Collection Events</i>
Location of SEP:	Cooke, Fannin, & Grayson Counties; Red River, Trinity River, & Sulphur River Basins

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative 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 the **Texoma Council of Governments** for the *Household Hazardous Waste Collection Events* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to hold household hazardous waste (“HHW”) collection events in three regional locations, Cooke, Grayson, and Fannin Counties, to offer citizens the opportunity to recycle and/or dispose of hazardous material including paint, tires, poisons, antifreeze, used electronics, and other items that are difficult to dispose of in order to deter illegal dumping of these materials. The SEP Offset Amount will be used to hire a licensed contractor to set up operations at the three locations. Materials that are received for recycling or disposal will be removed by the contractor and transported to a licensed facility for proper disposal of all waste collected at the events. The licensed contractor will process and handle all material dropped off at the events. The SEP will be done in accordance with all 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.

West Wise Special Utility District
Agreed Order - Attachment A

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

Illegal dumping is a significant environmental concern. HHW collection events take a major burden off of local governments and provide a means for citizens to easily recycle and dispose of hazardous items. The majority of the region of Cooke, Fannin, and Grayson Counties is rural. HHW Collection services are not available to many of the region's rural citizens, leading people to collect hazardous materials on their properties or to improperly dispose of them. These events will reduce the amount of illegal dumping in the area, which reduces pollutants on land and in water. Additionally, in areas where adequate disposal facilities are not available, hazardous materials often end up in creeks or ditches along roadsides, which impacts water quality and wildfire.

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 **Texoma Council of Governments SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texoma Council of Governments
Attention: David Trout, Municipal Solid Waste Program Manager
1117 Gallagher Drive
Sherman, Texas 75090

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:

West Wise Special Utility District
Agreed Order - Attachment A

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 expenditure 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 and/or project, 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. Recognition

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