EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0366-MWD-E **TCEQ ID:** RN102182557 **CASE NO.:** 33113

RESPONDENT NAME: City of Colorado City

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Colorado City Wastewater Treatment Plant, approximately 1.7 miles south-southeast of the intersection of East Central Avenue and Washington Street along State Highway 163 and 1.7 miles east of the intersection of State Highway 163 and Farm-to-Market Road 1229, Mitchell County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ___ **Yes** _X_ **No**

OTHER SIGNIFICANT MATTERS: A complaint was received on January 11, 2007, stating that wastewater from a pond was overflowing and that the area around the pond was a mess. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on September 3, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2134; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

Respondent: The Honorable Jim Baum, Mayor, City of Colorado City, Post Office Box 912, Colorado City, Texas 79512; Mr. Paul Catoe, City Manager, City of Colorado City, Post Office Box 912, Colorado City, Texas 79512

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** January 11, 2007 **Date of Investigation Relating to this Case:** January 26, 2007 **Date of NOE Relating to this Case:** February 28, 2007 (NOE) **Background Facts:** This was a complaint investigation. Three violations were documented. **WATER** 1) Failure to prevent the unauthorized discharge of wastewater [TEX. WATER CODE § 26.121(a)(1), and Water Quality Permit No.WQ0010077001, Permit Condition No. 2.d.]. 2) Failure to adequately maintain the Facility [30 TEX. ADMIN. CODE § 305.125(1) and Water Quality Permit No. WQ0010077001, Operational Requirement No. 1]. 3) Failure to maintain a minimum of two feet of freeboard in the holding ponds. Specifically, the facility's holding ponds did not have a mimimum of two feet of freeboard. [30 TEX. ADMIN. CODE § 305.125(1), and Water Quality Permit No. WQ0010077001, Special Provision No. 7].	**Total Assessed:** $2,875 **Total Deferred:** $575 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,300 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the City has implemented the following corrective measures at the Facility: a. Revised Facility procedures by authorizing personnel to work additional time to ensure that the freeboard permit requirements are met in full, and also requiring a daily log of the freeboard level, the irrigation volume, and the volume of the ponds on February 2, 2007; and b. Hired a licensed Class A wastewater treatment operator to oversee the Facility on March 12, 2007. **Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges of wastewater effluent from the irrigation area; b. Immediately upon the effective date of this Agreed Order, begin maintaining a minimum of two feet of freeboard in the holding ponds; c. Within 30 days after the effective date of this Agreed Order, repair the leaking clearwell; and d. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 2.a. through 2.c. in the Agreed Order.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision March 19, 2007*

TCEQ

DATES					
Assigned	5-Mar-2007				
PCW	4-May-2007	Screening	30-Mar-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Colorado City		
Reg. Ent. Ref. No.	RN102182557		
Facility/Site Region	3 - Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33113	No. of Violations	3
Docket No.	2007-0366-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Suzanne Walrath
Multi-Media		EC's Team	Team 3
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **15%** Enhancement — *Subtotals 2, 3, & 7* **$375**

Notes: The Respondent received three NOVs for same or similar violations.

Culpability — No — **0%** Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — **0%** Reduction — *Subtotal 5* **$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.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$875
Approx. Cost of Compliance	$15,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$2,875**

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount **$2,875**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$2,875**

DEFERRAL — **20%** Reduction — *Adjustment* **-$575**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$2,300**

Screening Date 30-Mar-2007 **Docket No.** 2007-0366-MWD-E **PCW**

Respondent City of Colorado City *Policy Revision 2 (September 2002)*

Case ID No. 33113 *PCW Revision March 19, 2007*

Reg. Ent. Reference No. RN102182557

Media [Statute] Water Quality

Enf. Coordinator Suzanne Walrath

Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 15%

>> **Repeat Violator (Subtotal 3)**

No ***Adjustment Percentage (Subtotal 3)*** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer ***Adjustment Percentage (Subtotal 7)*** 0%

>> **Compliance History Summary**

Compliance History Notes The Respondent received three NOVs for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 30-Mar-2007 **Docket No.** 2007-0366-MWD-E **PCW**

Respondent City of Colorado City *Policy Revision 2 (September 2002)*

Case ID No. 33113 *PCW Revision March 19, 2007*

Reg. Ent. Reference No. RN102182557

Media [Statute] Water Quality

Enf. Coordinator Suzanne Walrath

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), and Water Quality Permit No.WQ0010077001, Permit Condition No. 2.d.

Violation Description Failed to prevent the unauthorized discharge of wastewater. Specifically, on January 26, 2007, the Abilene Regional Office documented an unauthorized discharge of wastewater effluent flowing from the irrigation area onto adjacent property.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			x
	Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 63 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended beginning on the investigation date (1/26/07) to case screening date (3/30/07).

Economic Benefit (EB) for this violation

Estimated EB Amount $331

Statutory Limit Test

Violation Final Penalty Total $1,150

This violation Final Assessed Penalty (adjusted for limits) $1,150

Economic Benefit Worksheet

Respondent City of Colorado City
Case ID No. 33113
Reg. Ent. Reference No. RN102182557
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$5,000	21-Jan-2007	1-Jan-2008	0.9	$16	$315	$331
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: These are estimated costs for increased supervision of maintenance activities in order to control irrigation application rates. The date required is the date that the unauthorized discharge occurred. The final date is the projected date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $5,000

TOTAL $331

Screening Date 30-Mar-2007 **Docket No.** 2007-0366-MWD-E **PCW**

Respondent City of Colorado City *Policy Revision 2 (September 2002)*

Case ID No. 33113 *PCW Revision March 19, 2007*

Reg. Ent. Reference No. RN102182557

Media [Statute] Water Quality

Enf. Coordinator Suzanne Walrath

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Water Quality Permit No. WQ0010077001, Operational Requirement No. 1

Violation Description Failed to adequately maintain the Facility. Specifically, the Facility's clearwell was observed to be leaking excessively and surrounded by wastewater.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 63 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended beginning on the investigation date (1/26/07) to case screening date (3/30/07).

Economic Benefit (EB) for this violation

Estimated EB Amount $272

Statutory Limit Test

Violation Final Penalty Total $1,150

This violation Final Assessed Penalty (adjusted for limits) $1,150

Economic Benefit Worksheet

Respondent City of Colorado City
Case ID No. 33113
Reg. Ent. Reference No. RN102182557
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
6.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$5,000	21-Jan-2007	1-Nov-2007	0.8	$13	$259	$272
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for DELAYED costs: These are estimated costs for extra personnel hours for pumping and facility supervision in order to to lower the level of the clearwell so it can be repaired. The date required is the date that the unauthorized discharge occurred. The final date is the projected date of compliance.

Notes for AVOIDED costs:

Approx. Cost of Compliance $5,000

TOTAL $272

Screening Date 30-Mar-2007 **Docket No.** 2007-0366-MWD-E **PCW**

Respondent City of Colorado City *Policy Revision 2 (September 2002)*

Case ID No. 33113 *PCW Revision March 19, 2007*

Reg. Ent. Reference No. RN102182557

Media [Statute] Water Quality

Enf. Coordinator Suzanne Walrath

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1). and Water Quality Permit No. WQ0010077001, Special Provision No. 7

Violation Description Failed to maintain a minimum of two feet of freeboard in the holding ponds. Specifically, the Facility's holding ponds did not have a mimimum of two feet of freeboard.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

OR

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment $9,500

$500

Violation Events

Number of Violation Events 1 — 63 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $500

One single event is recommended based on the investigation date (1/26/07).

Economic Benefit (EB) for this violation

Estimated EB Amount $272

Statutory Limit Test

Violation Final Penalty Total $575

This violation Final Assessed Penalty (adjusted for limits) $575

Economic Benefit Worksheet

Respondent City of Colorado City
Case ID No. 33113
Reg. Ent. Reference No. RN102182557
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$5,000	21-Jan-2007	1-Nov-2007	0.8	$13	$259	$272
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: These are estimated costs for extra personnel hours for pumping and facility supervision in order to increase the freeboard in the holding ponds. The date required is the date that the unauthorized discharge occurred. The final date is the projected date of compliance.

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

Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $5,000

TOTAL $272

Compliance History

Customer/Respondent/Owner-Operator:	CN600738884	City of Colorado City	Classification: AVERAGE	Rating: 2.50
Regulated Entity:	RN102182557	CITY OF COLORADO	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	WASTEWATER WASTEWATER LICENSING		PERMIT LICENSE	WQ0010077001 WQ0010077001
Location:	Approximately 1.7 miles south-southeast of the intersection of East Central Avenue and Washington Street along State Highway 163 and 1.7 miles east of the intersection of State Highway 163 and Farm-to-Market Road 1229 in Mitchell County		Rating Date: September 01 06	Repeat Violator NO

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: April 11, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: April 11, 2002 to April 11, 2007

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

Name: Suzanne Walrath Phone: 512/239-2134

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 04/19/2004 (269480)
2 07/09/2004 (280671)
3 08/17/2006 (509167)

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

Date: 04/16/2004 (269480)

Self Report? NO Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010077-001
Description: Failure to maintain a minimum of two feet of freeboard in the holding ponds.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010077-001
Description: Failure to submit closure plans to the Executive Director of the Permitting Section at least 90 days prior to such activity.

Date: 03/10/2006 (458245)

Self Report? NO Classification: Major

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

Rqmt Prov: PERMIT WQ0010077-001
Description: Failure to prevent the discharge of pollutants into waters in the State.
Date: 08/16/2006 (509167)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF COLORADO CITY	§	
RN102182557	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0366-MWD-E

I. JURISDICTION AND STIPULATIONS

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 Colorado City ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City, appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant approximately 1.7 miles south-southeast of the intersection of East Central Avenue and Washington Street along State Highway 163 and 1.7 miles east of the intersection of State Highway 163 and Farm-to-Market Road 1229 in Mitchell County, Texas (the "Facility").

2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.

4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Eight Hundred Seventy-Five Dollars ($2,875) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid Two Thousand Three Hundred Dollars ($2,300) of the administrative penalty and Five Hundred Seventy-Five Dollars ($575) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:

   a. Revised Facility procedures by authorizing personnel to work additional time to ensure that the freeboard permit requirements are met in full, and also requiring a daily log of the freeboard level, the irrigation volume, and the volume of the ponds on February 2, 2007; and

   b. Hired a licensed Class A wastewater treatment operator to oversee the Facility on March 12, 2007.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

11. 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.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to prevent the unauthorized discharge of wastewater into or adjacent to any waters in the state, in violation of TEX. WATER CODE § 26.121(a)(1), and Water Quality Permit No. WQ0010077001, Permit Condition No. 2.d., as documented during an investigation conducted on January 26, 2007.

2. Failed to adequately maintain the Facility, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and Water Quality Permit No. WQ0010077001, Operational Requirement No. 1, as

documented during an investigation conducted on January 26, 2007. Specifically, the Facility's clearwell was observed to be leaking excessively and surrounded by wastewater.

3. Failed to maintain a minimum of two feet of freeboard in the holding ponds, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and Water Quality Permit No. WQ0010077001, Special Provision No. 7, as documented during an investigation conducted on January 26, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Colorado City, Docket No. 2007-0366-MWD-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges of wastewater effluent from the irrigation area;

   b. Immediately upon the effective date of this Agreed Order, begin maintaining a minimum of two feet of freeboard in the holding ponds, in accordance with Water Quality Permit No. WQ0010077001;

   c. Within 30 days after the effective date of this Agreed Order, repair the leaking clearwell; and

   d. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 2.a. through 2.c. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those

individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine 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
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

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

4. If the City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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

6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 9/7/07
For the Executive Director Date

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

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

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

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

_____ 06-29-07
Signature Date

Jim Baum _____ Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Colorado City

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