EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1627-MWD-E **TCEQ ID:** RN101919314 **CASE NO.:** 31057

RESPONDENT NAME: City of Eastland

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	X WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: City of Eastland, located at the east end of Smith Street, approximately one mile southeast of the intersection of State Highway 6 and U. S. Highway 80 and 1.4 miles northeast of the intersection of State Highway 6 and Interstate Highway 20, Eastland, Eastland County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 22, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Section I, MC 169, (512) 239-4493; Mr. Steven Lopez, Enforcement Division, Enforcement Section I, MC 219, (512) 239-1896

Central Office Investigator: Ms. Rosie Garza, Enforcement Division, Compliance Monitoring Section, MC 224, (512) 239-4574

Respondent: The Honorable Mark Pipkin, Mayor, City of Eastland, P. O. Box 749, Eastland, Texas 76448
Mr. Don T. Wilson, Eastland City Manager, City of Eastland, P.O. Box 749, Eastland, Texas 76448

Respondent's Attorney: Not represented by counsel on this enforcement matter

RESPONDENT'S NAME: City of Eastland
DOCKET NO.: 2006-1627-MWD-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review **Date of Complaints Relating to this Case:** None **Date of Record Review Relating to this Case:** August 2, 2006 **Date of NOE Relating to this Case:** August 14, 2006 (NOE) **Background Facts:** This was a routine schedule record review for compliance with the water quality program. One significant program violation was observed. **WATER** Failure to comply with its permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010637001 Interim Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].	**Total Assessed:** $1,490 **Total Deferred:** $298 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,192 **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provision** The Order will require the Respondent to submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010637001 within 60 days after the effective date of this Agreed Order.

Attachment: Site Compliance History

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	21-Aug-2006				
PCW	05-Oct-2006	Screening	30-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Eastland		
Reg. Ent. Ref. No.	RN101919314		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31057	No. of Violations	1
Docket No.	2006-1627-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 49% Enhancement *Subtotals 2, 3, & 7* $490

Notes: The respondent received two NOVs for unrelated violations and has nine months of self-reported effluent violations.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: 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 a small x)*

Notes: Does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$408
Approx. Cost of Compliance	$5,000

SUM OF SUBTOTALS 1-7 Final Subtotal $1,490

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 $1,490

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $1,490

DEFERRAL 20% Reduction Adjustment -$298

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 $1,192

Screening Date	30-Aug-2006	**Docket No.** 2006-1627-MWD-E	**PCW**
Respondent	City of Eastland		*Policy Revision 2 (September 2002)*
Case ID No.	31057		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN101919314		
Media [Statute]	Water Quality		
Enf. Coordinator	Pamela Campbell		

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)*	9	45%
	Other written NOVs	2	4%
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*	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) **49%**

>> 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 two NOVs for unrelated violations and has nine months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **49%**

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	30-Aug-2006
Docket No.	2006-1627-MWD-E
Respondent	City of Eastland
Case ID No.	31057
Reg. Ent. Reference No.	RN101919314
Media [Statute]	Water Quality
Enf. Coordinator	Pamela Campbell
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010637001 Interim Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)
Secondary Rule Cite(s)	
Violation Description	Failure to comply with its permitted effluent limits as shown on the attached violation table.

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

Matrix Notes: A simplified model was utilized to evaluate the values for carbonaceous biochemical oxygen demand, ammonia nitrogen ("NH_3N"), and flow to determine whether the discharged amounts of pollutants (NH_3N) exceeded levels protective of human health or the environment. The amounts discharged at the time of the violation were insignificant and did not exceed levels protective of human health or the environment.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $408

Statutory Limit Test

Violation Final Penalty Total $1,490

This violation Final Assessed Penalty (adjusted for limits) $1,490

Economic Benefit Worksheet

Respondent: City of Eastland
Case ID No.: 31057
Reg. Ent. Reference No.: RN101919314
Media [Statute]: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$5,000	01-Mar-2006	01-May-2007	1.2	$19	$389	$408
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	This is the estimated cost to provide additional oversight at the facility.						
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: $408

Effluent Limit Violation Table

table rev. 12/11/2000

Respondent	City of Eastland
ID Number(s)	TPDES Permit No. WQ0010637001
Docket Number	2006-1627-MWD-E
Enf. Coordinator	Pamela Campbell

Corresponds to Violation Number: 1

	EFFLUENT PARAMETER												
	Permit Limit												
	NH_3-N Daily Ave. Conc.	NH_3-N Daily Max.											
Month/Year	3 mg/L	10 mg/L											
March 2006	8.546	16.2											
April 2006	6.493	25.3											

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator:	CN600338222	City of Eastland	Classification: AVERAGE	Rating: 1.77
Regulated Entity:	RN101919314	CITY OF EASTLAND	Classification: AVERAGE	Site Rating:0.53
ID Number(s):	WASTEWATER	PERMIT		WQ0010637001
	WASTEWATER	PERMIT		TPDES0024007
	WASTEWATER	PERMIT		TX0024007
	WASTEWATER LICENSING	LICENSE		WQ0010637001

Location: At the east end of Smith Street, approximately one mile southeast of the intersection of State Highway 6 & US Hwy 80 and 1.4 miles northeast of the intersection of State Highway 6 and Interstate Hwy 20 in the city of Eastland Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: September 12, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 12, 2001 to September 12, 2006
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Pamela Campbell Phone: 5 12 239-4493

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 02/27/2002 (169041)
2 01/21/2003 (169083)
3 01/28/2002 (169082)
4 10/13/2005 (441703)
5 10/27/2005 (441704)
6 08/24/2004 (353971)
7 02/26/2004 (299970)
8 09/27/2004 (353972)
9 10/21/2004 (353973)
10 11/29/2004 (353974)
11 01/02/2003 (169079)
12 03/19/2004 (299973)
13 04/16/2004 (299974)
14 04/26/2006 (499319)
15 01/02/2002 (169078)
16 05/30/2006 (499320)
17 05/28/2004 (299976)
18 06/29/2006 (499321)
19 06/24/2004 (299978)
20 12/06/2002 (169075)
21 07/26/2004 (299980)
22 11/26/2001 (169074)
23 08/28/2003 (299982)
24 10/02/2003 (299984)
25 10/30/2002 (169071)
26 11/06/2003 (299986)
27 12/14/2001 (169070)
28 12/01/2003 (299987)
29 12/22/2003 (299988)
30 01/26/2004 (299989)
31 09/30/2002 (169068)
32 10/01/2001 (169067)
33 08/26/2002 (169065)
34 09/24/2001 (169064)
35 07/28/2003 (169062)
36 08/01/2002 (169061)
37 06/27/2003 (169058)
38 08/17/2006 (489829)
39 07/01/2002 (169057)
40 02/24/2006 (470186)
41 03/27/2006 (470187)
42 05/30/2003 (169054)
43 05/30/2002 (169053)
44 09/26/2005 (470188)

45 02/27/2002 (246762)
46 04/25/2003 (169050)
47 11/22/2005 (470189)
48 04/24/2002 (169049)
49 04/13/2004 (268943)
50 12/27/2005 (470190)
51 02/24/2005 (382895)
52 03/28/2005 (382896)
53 12/30/2004 (382897)
54 01/27/2006 (470191)
55 01/27/2005 (382898)
56 03/27/2003 (169045)
57 07/09/2004 (280654)
58 04/29/2005 (420699)
59 03/27/2002 (169044)
60 05/27/2005 (420700)
61 06/27/2005 (420701)
62 07/28/2005 (420702)
63 02/28/2003 (169042)

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

Date: 03/31/2006 (499319)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (499320)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (499321)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2002 (169071)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2002 (169068)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2002 (169065)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/27/2002 (246762)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/31/2002 (169049)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2002 (169044)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/16/2004 (268943)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to use an accurate flow measuring device to measure the effluent discharge. During the investigation the investigator conducted a flow accuracy check of the facility's flow meter.

Date: 01/31/2002 (169041)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF EASTLAND	§	
RN101919314	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1627-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 Eastland ("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 located at the east end of Smith Street, approximately one mile southeast of the intersection of State Highway 6 and U. S. Highway 80 and 1.4 miles northeast of the intersection of State Highway 6 and Interstate Highway 20 in Eastland, Eastland 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 August 19, 2006.

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 One Thousand Four Hundred Ninety Dollars ($1,490) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand One Hundred Ninety-Two Dollars ($1,192) of the administrative penalty and Two Hundred Ninety-Eight Dollars ($298) 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

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 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.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

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

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with its permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010637001 Interim Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on August 2, 2006 and shown in the table below.

Month/Year	NH_3-N Daily Ave. Conc. 3 mg/L	NH_3-N Daily Max. 10 mg/L
March 2006	8.546	16.2
April 2006	6.493	25.3

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

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 Eastland, Docket No. 2006-1627-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 within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010637001 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Manager Water Section
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. 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

For the Executive Director

2/8/07
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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Don T. Wilson
Signature

10/23/2006
Date

DON T. WILSON
Name (Printed or typed)
Authorized Representative of
City of Eastland

Eastland City Manager
Title

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.

10/8/5