

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2003-1298-MWD-E TCEQ ID NOS. RN102185543 AND 10734-001 ENF. ID: 9942
RESPONDENT NAME: CITY OF LOVELADY

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input checked="" type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 0.5 miles southwest of the intersection of State Highway 19 and Farm-to-Market Road 1280 in Lovelady, Houston County

TYPE OF OPERATION: Domestic wastewater facility

SMALL BUSINESS: ___ Yes No

OTHER SIGNIFICANT MATTERS: There are no previous 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 May 22, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Shannon Strong, Litigation Division, MC 175, (512) 239-0972; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Section III, MC 128, (512) 239-4492
TCEQ Regional Contact: Ms. Jo English, Beaumont Regional Office, MC R-10, (409) 898-3838
Respondent: The Honorable David Driskell, Mayor, City of Lovelady, P.O. Box 83, Lovelady, TX 75851
Respondent's Attorney: Not represented by counsel.

CHIEF CLERKS OFFICE

2006 MAY 24 PM 4:09

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2003-1298-MWD-E TCEQ ID NOS. RN102185543 AND 10734-001 ENF. ID: 9942
RESPONDENT NAME: CITY OF LOVELADY

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: May 28, 2003 (Record Review), October 23, 2003 (Record Review), May 5, 2004</p> <p>Date(s) of NOV(s) /NOE(s) Relating to this Case: October 10, 2003 (NOE) and July 2, 2004 (NOE)</p> <p>Background Facts: The self-reported effluent violation was referred to Litigation February 10, 2004. In June 2004, the City of Lovelady requested financial inability to pay and SEP information. Lovelady requested to pursue the financial inability to pay determination first. A subsequent investigation resulted in additional violations, which were referred to Litigation on September 14, 2004, and incorporated into the present proceeding. The City's audited financial statement for fiscal year ending March 31, 2004, necessary for the financial inability to pay determination, was not finalized and approved by the City's Council until the September 14, 2004 council meeting. In February 2005, the MUNIPAY model determined that the City did not have the adequate funds or borrowing capability to pay the penalty as well as come into compliance.</p> <p>However, after this determination was made, the City received a TCDP grant to repair its water system and in June 2005, the City received another TCDP grant for repairs to its wastewater collection system. Each of these grants required matching local funds as well as additional costs related to these repair projects.</p> <p>After much review of the MUNIPAY model parameters and the City's current and projected finances, and discussions with the City and agency representatives, the receipt of the grant funds negated the use of costs of compliance; the City does have adequate funds to pay the penalty as well as come into compliance.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p>	<p>Total Assessed: \$19,550</p> <p>Total Deferred: \$0</p> <p style="padding-left: 40px;"><input type="checkbox"/> Expedited Settlement</p> <p style="padding-left: 40px;"><input type="checkbox"/> Financial Inability to Pay</p> <p>Amount Due/Paid to Generate Revenue: \$545/\$19,005</p> <p>The Respondent has paid \$545 of the penalty. The remaining amount of \$19,005 shall be payable in 35 monthly payments of \$543.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Minor Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken</p> <p>The Executive Director recognizes that, based on compliance documentation received by the TCEQ on July 26, 2004, the Respondent has implemented the following corrective measures at the Facility in response to this enforcement action:</p> <ol style="list-style-type: none"> 1. Removed oil and grease from the wet well and repaired the visual alarm at Lift Station #1. 2. Repaired the damaged manhole on Southwest Commerce St. 3. Recalibrated the effluent flow meter. 4. Began maintaining an operational log which provides the name of the analyst, date and time of readings and pH measurements as well as effluent flow readings. <p>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days after the effective date of the Agreed Order, repair the erosion damage to the facultative lagoon levee. 2. Within 40 days after the effective date of the Agreed Order, submit photographs documenting completion of paragraph 1 above. 3. Within 120 days after the effective date of the Agreed Order, develop and implement a plan and schedule for mitigating the effects of inflow/infiltration on the collections system. The plan and schedule shall be prepared by a Texas registered professional engineer and shall include, but not be limited to obtaining funding for collection system rehabilitation, a schedule for upgrading the collection system which includes interim milestone dates, an evaluation phase to determine the effectiveness of the updates to the collection system, and a determination if expansion or modification to the wastewater treatment plant is required to address the hydraulic loading on the wastewater treatment plant so as to achieve compliance with the permitted effluent limitations of TPDES Permit No. 10734-001 by no later than 365 days after the effective date of the Agreed Order. Upon review and written approval of the plan and schedule, all milestone dates will be incorporated as an enforceable condition of the Order and shall be complied with by the City.

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2003-1298-MWD-E TCEQ ID NOS. RN102185543 AND 10734-001 ENF. ID: 9942

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VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>MWD:</p> <p>1. Failed to comply with its permitted effluent quality limitations as documented by record reviews conducted on May 28, 2003 and October 23, 2003 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 10734-001, Effluent and Monitoring Requirements].</p> <p>2. Failed to maintain units of conveyance as evidenced by a damaged manhole and an inoperable visual alarm on Lift Station No. 1, which has resulted in the treatment facility being impacted by inflow/infiltration and has failed to initiate plans for expansion or submit an engineering report to document a request for a waiver of the "75/90" rule requirement. The Respondent also failed to properly maintain all units of treatment as evidenced by minor erosion along the facultative lagoon dike and failed to maintain the flow measurement device to provide accurate readings as documented during an investigation conducted by the TCEQ Beaumont Regional Office on May 5, 2004 [30 TEX. ADMIN. CODE §§ 305.125(1) and (5), and 305.126(a) and TPDES Permit No. 10734-001, Permit Conditions No. 2.b. and Operational Requirements Nos. 1 and 8].</p> <p>3. Failed to maintain pH calibration records and to record the name of the individual and the time that pH measurements and flow readings were taken as documented during an investigation conducted by the TCEQ Beaumont Regional Office on May 5, 2004 [30 TEX. ADMIN. CODE § 319.7(a) and (c) and TPDES Permit No. 10734-001, Monitoring and Reporting Requirements Nos. 3.b. and 3.c].</p>		<p>4. Within 15 days following the completion of each milestone/deadline required in the plan, submit written certification documenting satisfactory completion of each item, including all interim milestone dates which are part of the approved schedule in the Order.</p>

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Penalty Calculation Worksheet (PCW)

DATES	
PCW 13-Apr-2005	Screening 3-Sep-2003
Priority Due 2-Nov-2003	EPA Due
RESPONDENT INFORMATION	
Respondent	City of Lovelady
Respondent/Site ID No(s)	Regulated Entity ID No. RN102185543; TPDES Permit No. 10734-001
Facility/Site Region	10 - Beaumont
Major/Minor Source	Minor
CASE INFORMATION	
Enf./Case ID No(s)	CCEDS Case No. 9942
Docket No.	Docket No. 2003-1298-MWD-E
Case Priority	2
Enf. Coordinator	Michael Meyer
Media Program(s)	Water Quality
Admin. Penalty \$ Limit	Minimum \$0 Maximum \$10,000
No. Violations	1
Order Type	1660 with deferral
EC's Team	Enforcement Team D

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	165% Enhancement	Subtotals 2, 3 & 7
Notes	The respondent had 33 self-reported monthly effluent violations.	+
Culpability	0% Enhancement	Subtotal 4
Notes	The respondent does not meet the culpability criteria.	+
Good Faith Effort to Comply	0% Reduction	Subtotal 5
Notes	The respondent is not yet in compliance.	+
Economic Benefit	0% Enhancement*	Subtotal 6
Notes	The respondent is not yet in compliance.	+
	\$499 Total EB Amounts	*Capped at the Total EB \$ Amount
	\$5,000 Approx. Cost of Compliance	=
SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,200
OTHER FACTORS AS JUSTICE MAY REQUIRE	-22.6415 Reduction	Adjustment
Notes	Recommend reduction in penalty so that monthly self-reported violations don't overly impact the penalty amount.	=
	Final Penalty Amount	\$16,400
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,400
DEFERRAL	Deferral Reduction	Adjustment
Notes	There is no deferral because settlement was not achieved through the expedited process.	=
PAYABLE PENALTY		\$16,400

Screening Date 3-Sep-2003 **Docket Number** Docket No. 2003-129 **PCW**
Respondent City of Lovelady **Policy Revision 2 (09/02)**
Case ID No. CCEDS Case No. 9942 **PCW Revision 6/12/2003**
Respondent/Site ID No. Regulated Entity ID No. RN102185543; TPDES Permit No. 10734-001
Media [Statute] Water Quality
Enf. Coordinator Michael Meyer
Site Address 0.5 miles southwest of the intersection of State Highway 19 and Farm-to-Market Road 1280

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)	33	165%
	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%
<i>Please enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	no	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	no	0%
	Participation in a voluntary pollution reduction program	no	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	no	0%

Adjustment Percentage (Subtotal 2) 165%

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

No Select Yes/No **Adjustment Percentage (Subtotal 3) 0%**

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

Average Performer Select High, Average or Poor **Adjustment Percentage (Subtotal 7) 0%**

Compliance History Summary

Compliance History Notes The respondent had 33 self-reported monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 165%

Screening Date 03-Sep-03 **Docket Number** Docket No. 2003-1298-MWD-E **PCW**
Respondent City of Lovelady **Policy Revision 2 (09/02)**
Case ID No. CCEDS Case No. 9942 **PCW Revision 6/12/2003**
Respondent/Site ID No. Regulated Entity ID No. RN102185543; TPDES Permit No. 10734-001
Media [Statute] Water Quality
Enf. Coordinator Michael Meyer
Violation Number 1
Primary Rule Cite TPDES Permit No. 10734-001, Effluent Limitations and Monitoring Requirements; Texas Water Code § 26.121(a) and 30 Tex. Admin.Code § 305.125(1)
Secondary Cite(s)
Violation Description The respondent failed to comply with its permitted effluent quality limitations as detailed in the attached Effluent Limit Violations table, as documented by record reviews conducted on 5/28/2003 and 10/23/2003.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			x	Percent 10%
	Potential				

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification				Percent

Matrix Notes

The loading ratio calculator was used in determining the impact of the BOD violations. There is no documentation which demonstrates a significant impact upon the receiving stream. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violations.

Adjustment -\$9,000
Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 8

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$8,000

Events Notes

Eight quarterly events are recommended for the violation months of 8/01, 10/01-12/01, 4/02-8/02, 10/02-12/02, 2/03, 4/03 and 6/03-7/03.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$499	Violation Final Penalty total \$16,400
This Violation Final Assessed Penalty (adjusted for limits) \$16,400	

Economic Benefit Worksheet

Respondent City of Lovelady
 ID Number(s) CCEDS Case No. 9942
 Media [Statute] Water Quality
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
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)	\$5,000	1-Aug-2001	31-Jul-2003	2.0	\$499	n/a	\$499

Notes for DELAYED costs

This is an estimate of the cost of corrective measures, including operation and maintenance, needed to bring the plant into 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/equip				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

TOTAL

Effluent Limit Violation Table

table rev. 12/11/2000

Respondent	City of Lovelady
ID Number(s)	CCEDS Case No. 9942
Docket Number	2003-1298-MWD-E
Enf. Coordinator	Michael Meyer

Corresponds to Violation Number: 1

EFFLUENT PARAMETER

Permit Limit

Month/Year	Daily Average BOD5 (mg/L)	Daily Average BOD5 (lbs/day)	Single Grab BOD5 (mg/L)	Daily Average TSS (mg/L)	Daily Average TSS (lbs/day)	Daily Max. pH (s.u.)	Min. Dissolved Oxygen (mg/L)	Daily Average Flow (MGD)					
	30	26	100	90	79	9	4	0.105					
August 2001	c	c	c	c	c	c	3.5	c					
October 2001	49.4	c	c	c	c	c	c	c					
November 2001	40.75	c	c	c	c	c	c	c					
December 2001	c	c	c	c	c	9.07	c	0.1095					
April 2002	35.2	c	c	129.6	c	9.18	c	c					
May 2002	32.25	c	c	c	c	9.2	c	c					
June 2002	c	c	c	c	c	9.8	c	c					
July 2002	c	c	c	c	c	9.07	c	c					
August 2002	c	c	c	c	c	c	2.8	c					
October 2002	43.2	68.624	c	92.806	c	9.3	c	c					
November 2002	c	c	c	c	c	9.27	c	c					
December 2002	c	c	c	c	c	c	c	0.1337					
February 2003	c	c	c	c	c	c	c	0.1129					
April 2003	c	c	c	c	c	9.89	c	c					
May 2003	c	c	c	c	c	9.31	c	c					
June 2003	c	c	c	c	c	c	3.7	c					
July 2003	31.8	c	c	c	c	c	2.7	c					

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



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 17, 2004

DATES

PCW Screening Priority Due EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Additional ID No(s).
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Case Priority Enf. Coordinator
 Media Program(s) EC's Team
 Multi-Media
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 165% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

Before NOV NOV to EDRP/Settlement Offer

Extraordinary
 Ordinary
 N/A (mark with a small x)

Notes

Economic Benefit 50% Enhancement* Subtotal 6

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 12-Jul-2004

Docket No. Docket No. 2003-129

PCW

Respondent City of Lovelady

Policy Revision 2 (September 2002)

Case ID No. CCEDS Case No. 9942

PCW Revision May 17, 2004

Reg. Ent. Reference No. Regulated Entity ID No. RN102185543

Additional ID No(s) TPDES Permit No. 10734-001

Media [Statute] Water Quality

Enf. Coordinator Michael Meyer

Site Address 0.5 miles southwest of the intersection of State Highway 19 and Farm-to-Market Road 1280

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Other	<i>Please Enter Yes or No</i>		
	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) 165%

>> **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 had 33 self-reported monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 165%

Screening Date 12-Jul-2004

Docket No. Docket No. 2003-129

PCW

Respondent City of Lovelady

Policy Revision 2 (September 2002)

Case ID No. CCEDS Case No. 9942

PCW Revision May 17, 2004

Reg. Ent. Reference No. Regulated Entity ID No. RN102185543

Additional ID No(s). TPDES Permit No. 10734-001

Media [Statute] Water Quality

Enf. Coordinator Michael Meyer

Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)

TPDES Permit No. 10734-001, Permit Conditions No. 2.b. and Operational Requirements Nos. 1 and 8, 30 Tex. Admin. Code § 305.125(1) and (5) and 30 Tex. Admin. Code § 305.126(a)

Violation Description

The Respondent has failed to maintain units of conveyance as evidenced by a damaged manhole and an inoperable visual alarm on Lift Station No. 1, which has resulted in the treatment facility being impacted by inflow/infiltration and Lovelady has failed to initiate plans for expansion or submit an engineering report to document a request for a waiver of the "75/90" rule requirement. The Respondent also failed to properly maintain all units of treatment as evidenced by minor erosion along the facultative lagoon dike and failed to maintain the flow measurement device to provide accurate readings, as documented during an investigation conducted by the TCEQ Beaumont Regional Office conducted on 5/5/2004.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Matrix Notes	Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violations.					

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

This is a single event as documented during the 5/5/2004 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Lovelady
Case ID No. CCEDS Case No. 9942
Reg. Ent. Reference No. Regulated Entity ID No. RN102185543
Additional ID No(s). TPDES Permit No. 10734-001
Media [Statute] 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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$75,000	01-Aug-2001	31-Dec-2005	4.4	\$1,105	\$22,096	\$23,201
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 an estimate of the cost of compliance and includes the cost for evaluating the collection system as well as the cost for rehabilitation of the collection system and the cost for recalibrating the flow meter and repairing the minor erosion along the facultative lagoon dike. The Date Required is the date of the regional investigation and 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 \$75,000
TOTAL \$23,201

Screening Date 12-Jul-2004

Docket No. Docket No. 2003-129

PCW

Respondent City of Lovelady

Policy Revision 2 (September 2002)

Case ID No. CCEDS Case No. 9942

PCW Revision May 17, 2004

Reg. Ent. Reference No. Regulated Entity ID No. RN102185543

Additional ID No(s). TPDES Permit No. 10734-001

Media [Statute] Water Quality

Enf. Coordinator Michael Meyer

Violation Number

Primary Rule Cite(s) TPDES Permit No. 10734-001, Monitoring and Reporting Requirements No. 3.b. and 3.c. and 30 Tex. Admin. Code §§ 319.7(a) and (c)

Secondary Rule Cite(s)

Violation Description Failure to maintain pH calibration records and to record the name of the individual and the time that pH measurements and flow readings were taken, as documented during an investigation conducted by the TCEQ Beaumont Regional Office on 5/5/2004.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text" value="5%"/>

Matrix Notes The Respondent failed to comply with two of the five components required for measurement of pH and monitoring of flow as well as the failure to maintain pH calibration records. A total of 5 out of a possible 11 monitoring activity requirements (45%) were not being met.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input checked="" type="checkbox"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

Violation Base Penalty

A single event as documented during an investigation conducted on 5/5/2004.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Lovelady
Case ID No. CCEDS Case No. 9942
Reg. Ent. Reference No. Regulated Entity ID No. RN102185543
Additional ID No(s). TPDES Permit No. 10734-001
Media [Statute] Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
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

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)	\$100	05-May-2004	31-Dec-2004	1.0	\$5	\$100	\$105

Notes for AVOIDED costs

This is an estimate of the cost to maintain pH calibration records and to record that name of the individual and the time that pH measurements and flow readings were taken.

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN600658025 City of Lovelady	Classification: AVERAGE	Rating: 1.960
Regulated Entity:	RN102185543 CITY OF LOVELADY	Classification: AVERAGE	Site Rating: 1.96
ID Number(s):	WASTEWATER	PERMIT	TPDES0027138
	WASTEWATER	PERMIT	WQ0010734001
	WASTEWATER LICENSING	LICENSE	WQ0010734001
Location:	PO BOX 83, LOVELADY, TX, 75851	Rating Date: 9/1/04 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	April 13, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 10, 1998 to October 10, 2003		

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

Name: Michael Meyer Phone: (512) 239-4492

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 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 |
| 6. Comments: | 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 | 05/16/2003 | (302599) |
| 2 | 09/11/2003 | (302600) |
| 3 | 06/18/2001 | (175107) |
| 4 | 02/14/2000 | (175108) |
| 5 | 09/12/2003 | (302601) |
| 6 | 02/16/2001 | (175109) |
| 7 | 09/12/2003 | (302602) |
| 8 | 02/19/2002 | (175110) |
| 9 | 02/21/2003 | (175111) |
| 10 | 01/18/2000 | (175146) |
| 11 | 04/04/2001 | (175112) |
| 12 | 02/03/2003 | (175145) |
| 13 | 03/25/2002 | (175113) |
| 14 | 01/22/2002 | (175144) |
| 15 | 04/04/2003 | (175114) |
| 16 | 02/01/2001 | (175143) |
| 17 | 03/20/2000 | (175115) |

18 12/30/2002 (175142)
 19 04/14/2000 (175116)
 20 12/15/2001 (175141)
 21 06/03/2003 (250511)
 22 04/27/2001 (175117)
 23 12/15/2000 (175140)
 24 04/12/2002 (175118)
 25 11/25/2002 (175139)
 26 04/23/2003 (175119)
 27 05/22/2000 (175120)
 28 11/16/2001 (175138)
 29 05/14/2001 (175121)
 30 04/20/2001 (175137)
 31 11/01/2002 (175136)
 32 10/10/2001 (175135)
 33 05/20/2002 (175122)
 34 10/23/2000 (175134)
 35 06/21/2000 (175123)
 36 09/20/2002 (175133)
 37 09/19/2001 (175132)
 38 06/24/2002 (175124)
 39 07/31/2000 (175125)
 40 09/25/2000 (175131)
 41 08/16/2002 (175130)
 42 07/16/2001 (175126)
 43 07/26/2002 (175127)
 44 08/20/2001 (175129)
 45 08/28/2000 (175128)

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

Date: 04/30/2003 (302599)
 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: 05/31/2003 (302600)
 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: 06/30/2003 (302601)
 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: 07/31/2003 (302602)
 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: 12/31/2002 (175145)
 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: 08/31/2003 (302603) Classification: Moderate
Self Report? YES
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: 09/30/2003 (302604) Classification: Moderate
Self Report? YES
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: 12/31/2001 (175144) Classification: Moderate
Self Report? YES
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: 02/28/2001 (175112) Classification: Moderate
Self Report? YES
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: 11/30/2002 (175142) Classification: Moderate
Self Report? YES
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: 02/28/2003 (175114) Classification: Moderate
Self Report? YES
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: 11/30/2001 (175141) Classification: Moderate
Self Report? YES
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: 02/29/2000 (175115) Classification: Moderate
Self Report? YES
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: 11/30/2000 (175140) Classification: Moderate
Self Report? YES
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: 03/31/2000 (175116) Classification: Moderate
Self Report? YES
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: 10/31/2002 (175139) Classification: Moderate
Self Report? YES
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: 03/31/2001 (175117) Classification: Moderate
Self Report? YES
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

Self Report? Classification: Moderate
YES
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: 10/31/2001 (175138)

Self Report? Classification: Moderate
YES
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: 04/30/2000 (175120)

Self Report? Classification: Moderate
YES
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: 09/30/2000 (175134)

Self Report? Classification: Moderate
YES
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: 04/30/2001 (175121)

Self Report? Classification: Moderate
YES
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 (175133)

Self Report? Classification: Moderate
YES
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: 04/30/2002 (175122)

Self Report? Classification: Moderate
YES
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: 08/31/2001 (175132)

Self Report? Classification: Moderate
YES
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: 08/31/2000 (175131)

Self Report? Classification: Moderate
YES
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: 05/31/2000 (175123)

Self Report? Classification: Moderate
YES
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: 05/31/2002 (175124)

Self Report? Classification: Moderate
YES
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 (175130)

Self Report? Classification: Moderate
YES

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
(175125)
Date: 06/30/2000

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
(175129)
Date: 07/31/2001

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
(175126)
Date: 06/30/2001

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
(175128)
Date: 07/31/2000

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
(175127)
Date: 06/30/2002

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

Description:

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING CITY OF LOVELADY
TPDES PERMIT NO. 10734-001
RN102185543**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2003-1298-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Lovelady ("Lovelady") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Lovelady appear before the Commission and together stipulate that:

1. Lovelady owns and operates a domestic wastewater treatment plant located approximately 0.5 miles southwest of the intersection of State Highway 19 and Farm-to-Market Road 1280 in Lovelady, Houston County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Lovelady agree that the Commission has jurisdiction to enter this Agreed Order, and that Lovelady is subject to the Commission's jurisdiction.
4. Lovelady received notices of the violations alleged in Section II ("Allegations") on or about October 15, 2003 and July 7, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Lovelady of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of nineteen thousand five hundred fifty dollars (\$19,550.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Lovelady has paid five hundred forty-five dollars (\$545.00) of the administrative penalty. The remaining amount of nineteen thousand five dollars (\$19,005.00)

of the administrative penalty shall be payable in 35 monthly payments of five hundred forty-three dollars (\$543.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Lovelady fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Lovelady to meet the payment schedule of this Agreed Order constitutes the failure by Lovelady to timely and satisfactorily comply with all of the terms of this Agreed Order.

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 Lovelady 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, based on compliance documentation received by the TCEQ on July 26, 2004, Lovelady has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. removed oil and grease from the wet well and repaired the visual alarm at Lift Station # 1;
 - b. repaired the damaged manhole on Southwest Commerce St.;
 - c. recalibrated the effluent flow meter; and
 - d. began maintaining an operational log which provides the name of the analyst, date and time of readings and pH measurements as well as effluent flow readings
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 Lovelady 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

Lovelady is alleged to have violated:

1. TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. 10734-001, Effluent and Monitoring Requirements by failing to comply with its permitted effluent quality limitations as documented by record reviews conducted on May 28, 2003 and October 23, 2003 and reflected in the table below:

<i>Month/Year</i>	Daily Average BOD5 (mg/L)	Daily Average BOD5 (lbs/day)	Single Grab BOD5 (mg/L)	Daily Average TSS (mg/L)	Daily Average TSS (lbs/day)	Max. pH (s.u.)	Min. Dissolved Oxygen (mg/L)	Daily Average Flow (MGD)
	30	26	100	90	79	9	4	0.105
August 2001			3.5				3.5	
October 2001	49.4							
November 2001	40.75							
December 2001						9.07		0.1095
April 2002	35.2			129.6		9.18		
May 2002	32.25					9.2		
June 2002						9.8		
July 2002						9.07		
August 2002							2.8	
October 2002	43.2	68.624		92.806		9.3		
November 2002						9.27		
December 2002								0.1337
February 2003								0.1129
April 2003						9.89		
May 2003						9.31		
<i>Month/Year</i>	Daily Average BOD5 (mg/L)	Daily Average BOD5 (lbs/day)	Single Grab BOD5 (mg/L)	Daily Average TSS (mg/L)	Daily Average TSS (lbs/day)	Max. pH (s.u.)	Min. Dissolved Oxygen (mg/L)	Daily Average Flow (MGD)
	30	26	100	90	79	9	4	0.105
June 2003							3.7	
July 2003	31.8						2.7	

Abbreviations:

five-day biochemical oxygen demand - BOD5
total suspended solids - TSS
milligrams per liter - (mg/L)
pounds per day - lbs/day
million gallons per day - MGD

2. 30 TEX. ADMIN. CODE § 305.125(1) and (5), 30 TEX. ADMIN. CODE § 305.126(a), and TPDES Permit No. 10734-001, Permit Conditions No. 2.b. and Operational Requirements Nos. 1 and 8 by failing to maintain units of conveyance as evidenced by a damaged manhole and an inoperable visual alarm on Lift Station No. 1, which has resulted in the treatment facility being impacted by inflow/infiltration and Lovelady has failed to initiate plans for expansion or submit an engineering report to document a request for a waiver of the "75/90" rule requirement. Lovelady also failed to properly maintain all units of treatment as evidenced by minor erosion along the facultative lagoon dike and failed to maintain the flow measurement device to provide accurate readings as documented during an investigation conducted by the TCEQ Beaumont Regional Office on May 5, 2004.
3. 30 TEX. ADMIN. CODE § 319.7(a) and (c) and TPDES Permit No. 10734-001, Monitoring and Reporting Requirements No. 3.b. and 3.c. by failing to maintain pH calibration records and to record the name of the individual and the time that pH measurements and flow readings were taken as documented during an investigation conducted by the TCEQ Beaumont Regional Office on May 5, 2004.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Lovelady pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and Lovelady 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 considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Lovelady, Docket No. 2003-1298-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. Lovelady shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Lovelady shall repair the erosion damage to the facultative lagoon levee.
 - b. Within 40 days after the effective date of this Agreed Order, Lovelady shall submit photographs documenting completion of Ordering Provision No. 2.a. 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:

Heather Ross, Manager
Water Section
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, TX 77703-1892

- c. Within 120 days after the effective date of this Agreed Order, Lovelady shall develop and implement a plan and schedule for mitigating the effects of inflow/infiltration on the collection system. The plan and schedule shall be prepared by a Texas registered professional engineer and shall include: obtaining funding for collection system rehabilitation, a schedule for upgrading the collection system which includes interim milestone dates, an evaluation phase to determine the effectiveness of the upgrades to the collection system, and a determination if expansion or modification to the wastewater treatment plant is required to address the hydraulic loading on the wastewater treatment plant so as to achieve compliance with the permitted effluent limitations of TPDES Permit No. 10734-001 by no later than 365 days after the effective date of this Agreed Order. Upon review and written approval of the plan and schedule, all milestone dates will be incorporated as an enforceable condition of this Order and shall be complied with by the City.

- d. Within 15 days following the completion of each milestone/deadline date in Ordering Provision 2.c., Lovelady shall submit written certification documenting satisfactory completion of each item, including all interim milestone dates which are part of the approved schedule in Ordering Provision No. 2.c. to the same two addresses set forth in paragraph 2.b., above.
3. The provisions of this Agreed Order shall apply to and be binding upon Lovelady. Lovelady 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 Lovelady 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, Lovelady's failure to comply is not a violation of this Agreed Order. Lovelady shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Lovelady shall notify the Executive Director within seven days after Lovelady 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 Lovelady shall be made in writing to the Executive Director. Extensions are not effective until Lovelady 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 Lovelady 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Lovelady, or three days after the date on which the Commission mails notice of the Order to Lovelady, 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

George Perdue

For the Executive Director

5/11/06

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 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.

David W. Driskell

Signature

2-21-06

Date

David W. Driskell

Name (Printed or typed)

Authorized representative of City of Lovelady

Mayor

Title

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
H. S. Buddy Garcia, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 10, 2007

TO: All Persons on Mailing List

RE: **TCEQ Docket No. 2003-1298-MWD-E**; In the matter of an Agreed Order concerning the **City of Lovelady**.

The above-referenced matter is scheduled to be considered by the Texas Commission on Environmental Quality on **April 25, 2007 at 9:30 A.M.** in Room 201S, Building E, 12100 Park 35 Circle, Austin, Texas.

Should you need any additional information, please contact Paul Munguía at the Texas Commission on Environmental Quality, Office of the Chief Clerk, (512) 239-3300.

Sincerely,

A handwritten signature in cursive script, reading "LaDorna Castañuela".

LaDorna Castañuela
Chief Clerk

LDC/pm

**MAILING LIST
CITY OF LOVELADY
TCEQ DOCKET NO. 2003-1298-MWD-E**

The Honorable Michael Broxson
Mayor, City of Lovelady
P.O. Box 83
Lovelady, Texas 75851

Shannon Strong
Jennifer Cook
Texas Commission on Environmental Quality
Legal Division, MC-175
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Blas Coy, Jr.
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Bridget Bohac, Acting Director
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Austin, Texas 78711-3087
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Docket Clerk
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Office of the Chief Clerk, MC-105
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Fax: (512) 239-3311

Kathleen Hartnett White, *Chairman*
Larry R. Soward, *Commissioner*
Martin A. Hubert, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 14, 2006

CHIEF CLERKS OFFICE

2006 NOV 27 PM 1:39

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

To: Persons on the attached mailing list (by mail and facsimile as indicated)
Re: Agreed Order concerning the City of Lovelady; TCEQ Docket No. 2003-1298-MWD-E.

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its November 15, 2006, public meeting. On November 14, 2006, the City of Lovelady filed a request to continue this matter until the January 10, 2007 agenda to allow for a city representative to attend.

Accordingly, this matter is hereby continued to the Commission's public meeting scheduled on **Wednesday, January 10, 2007**, beginning at **9:30a.m.** The meeting will take place in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

If you have any questions about this matter, please contact Matt Beeter, Assistant General Counsel, at 512/239-1406.

Respectfully,

A handwritten signature in cursive script that reads "Derek Seal".

Derek Seal
General Counsel

Mailing List

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Mailing List
City of Lovelady
TCEQ Docket No. 2003-1298-MWD-E

The Honorable Michael Broxson
Mayor, City of Lovelady
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031
5
TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

CHIEF CLERKS OFFICE

2006 NOV 14 PM 12:27



CITY OF LOVELADY

November 14, 2006

Agenda Coordinator
Office of the Chief Clerk
Texas Commission on Environmental Quality
Fax: 512-239-3311

RE: Agenda November 15, 2006, Docket # 2003-1298-MWD -E

To Whom It May Concern:

This item was last scheduled for consideration on June 14, 2006. Representatives of the City were prepared to attend after having received prior notice on May 26, 2006. We were notified on June 13, 2006 that the matter was to be continued until a future time.

The City of Lovelady is very concerned about the resolution of this case and would like to have a representative at the meeting when it is considered. However due to the fact that we received first notice of this meeting on Monday, November 13 it will not be possible for anyone to attend. I am hereby requesting a continuance of the above named item until the Commissioners' meeting scheduled for January 10, 2007.

Thank you

Michael R. Broxson, Mayor

P.O. BOX 83
LOVELADY, TEXAS 75851

Phone: 936-636-7313
FAX: 936-636-7087

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 13, 2006

CHIEF CLERKS OFFICE

2006 JUN 15 AM 11:24

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

To: Persons on the attached mailing list (by mail and facsimile as indicated)

Re: Agreed Order concerning the City of Lovelady; TCEQ Docket No. 2003-1298-MWD-E.

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its June 14, 2006, public meeting. In accordance with 30 TAC §10.4, I have determined to continue this matter until a future Commission agenda.

If you have any questions about this matter, please contact Matt Beeter, Assistant General Counsel, at 512/239-1406.

Respectfully,

A handwritten signature in black ink that reads "Derek Seal".

Derek Seal
General Counsel

Mailing List

H:\COUNSEL\BEETER\Letters\Continued\LoveladyAO.ltr

Mailing List
City of Lovelady
TCEQ Docket No. 2003-1298-MWD-E

The Honorable Michael Broxson
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