# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2006-1879-MWD-E **TCEQ ID:** RN102079696 **CASE NO.:** 31562

**RESPONDENT NAME:** City of White Oak

## 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 White Oak Wastewater Treatment System, located approximately 1,500 feet east of State Highway 42 and 3,800 feet south of United States Highway 80, Gregg County

**TYPE OF OPERATION:** Wastewater treatment system

**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 February 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Lynley Doyen, Enforcement Division, Enforcement Section I, MC 169, (512) 239-1364; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Respondent:** The Honorable Tim Vaughn, Mayor, City of White Oak, 906 South White Oak Road, White Oak, Texas 75693
Mr. Ralph Weaver, City Coordinator, City of White Oak, 906 South White Oak Road, White Oak, Texas 75693

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

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:** __ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review<br><br>**Date of Complaint Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** September 14, 2006<br><br>**Date of NOE Relating to this Case:** October 10, 2006 (NOE)<br><br>**Background Facts:** This was a routine record review of self-reported Discharge Monitoring Reports. One violation was documented.<br><br>**WATER**<br><br>Failed to comply with the permitted effluent limitations of 5.0 milligrams per liter ("mg/L") daily average concentration ("avg. conc.") of ammonia nitrogen ("$NH_3$-N") and 7.0 mg/L daily maximum concentration ("max. conc.") of $NH_3$-N. Specifically, the reported values for April 2006 were 6.36 mg/L daily avg. conc. and 13.10 mg/L daily max. conc. and the reported values for May 2006 were 7.16 daily avg. conc. and 17.70 mg/L daily max. conc. [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. 10940001, Interim Effluent Limitations and Monitoring Requirements No. 1, Outfall 001]. | **Total Assessed:** $2,600<br><br>**Total Deferred:** $520<br>_X_ Expedited Settlement<br><br>__ Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid to General Revenue:** $2,080<br><br>**Site Compliance History Classification:** __ High _X_ Avg. __ Poor<br><br>**Person Compliance History Classification:** __ High _X_ Avg. __ Poor<br><br>**Major Source:** _X_ Yes __ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:<br><br>a. On June 30, 2006, achieved compliance with the permitted effluent limitations; and<br><br>b. On or around September 30, 2006, finished repairing the aeration rotors in the racetrack. |

# Penalty Calculation Worksheet (PCW)

TCEQ

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

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 16-Oct-2006 | | | | |
| PCW | 02-Nov-2006 | Screening | 26-Oct-2006 | EPA Due | 05-Dec-2006 |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | City of White Oak | | |
| Reg. Ent. Ref. No. | RN102079696 | | |
| Facility/Site Region | 5-Tyler | Major/Minor Source | Major Source |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 31562 | No. of Violations | 1 |
| Docket No. | 2006-1879-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Lynley Doyen |
| 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* $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** 29% Enhancement *Subtotals 2, 3, & 7* $725

Notes: The penalty is enhanced because the Respondent self-reported five months of effluent violations and received two NOVs with violations not the same or similar to those cited in this action.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 25% Reduction *Subtotal 5* -$625

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---|---|---|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | *(mark with a small x)* |

Notes: The Respondent achieved compliance on or around September 30, 2006.

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

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $794 |
| Approx. Cost of Compliance | $27,200 |

**SUM OF SUBTOTALS 1-7** Final Subtotal $2,600

**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 $2,600

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty $2,600

**DEFERRAL** 20% Reduction Adjustment -$520

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** $2,080

| | | | |
|---|---|---|---|
| **Screening Date** | 26-Oct-2006 | **Docket No.** 2006-1879-MWD-E | **PCW** |
| **Respondent** | City of White Oak | | *Policy Revision 2 (September 2002)* |
| **Case ID No.** | 31562 | | *PCW Revision May 19, 2005* |
| **Reg. Ent. Reference No.** | RN102079696 | | |
| **Media [Statute]** | Water Quality | | |
| **Enf. Coordinator** | Lynley Doyen | | |

## 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)* | 5 | 25% |
| | 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)*** **29%**

>> 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 penalty is enhanced because the Respondent self-reported five months of effluent violations and received two NOVs with violations not the same or similar to those cited in this action.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** **29%**

**PCW**

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

| | |
|---|---|
| **Screening Date** | 26-Oct-2006 |
| **Docket No.** | 2006-1879-MWD-E |
| **Respondent** | City of White Oak |
| **Case ID No.** | 31562 |
| **Reg. Ent. Reference No.** | RN102079696 |
| **Media [Statute]** | Water Quality |
| **Enf. Coordinator** | Lynley Doyen |
| **Violation Number** | 1 |
| **Primary Rule Cite(s)** | Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. 10940001, Interim Effluent Limitations and Monitoring Requirements No. 1, Outfall 001 |
| **Secondary Rule Cite(s)** | |
| **Violation Description** | Failure to comply with the permitted effluent limitations of 5.0 milligrams per liter ("mg/L") daily average concentration ("avg. conc.") for ammonia nitrogen ("$NH_3$-N") and 7.0 mg/L daily maximum concentration ("max. conc.") for $NH_3$-N. Specifically, the reported values for April 2006 were 6.36 mg/L daily avg. conc. and 13.10 mg/L daily max. conc. and the reported values for May 2006 were 7.16 daily avg. conc. and 17.70 daily max. conc. |

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | x |
| Potential | | | |

OR

**Percent** 25%

## >> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: A simplified model was used to evaluate $NH_3$-N to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

**Adjustment** -$7,500

**Base Penalty Subtotal** $2,500

## 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** $2,500

One quarterly event is recommended.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $794

## Statutory Limit Test

**Violation Final Penalty Total** $2,600

**This violation Final Assessed Penalty (adjusted for limits)** $2,600

# Economic Benefit Worksheet

Respondent: City of White Oak
Case ID No.: 31562
Reg. Ent. Reference No.: RN102079696
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 | $27,000 | 30-Apr-2006 | 30-Sep-2006 | 0.4 | $38 | $755 | $792 |
| 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 | $200 | 30-Apr-2006 | 30-Jun-2006 | 0.2 | $2 | n/a | $2 |
| 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: Equipment cost is the amount the Respondent paid to repair the aeration rotors. Training/sampling cost is estimated for additional oversight and sampling which may have alleviated or prevented the noncompliance.

| 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: N/A

Approx. Cost of Compliance: $27,200

TOTAL: $794

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600739684 | City of White Oak | Classification: AVERAGE | Rating: 0.32 |
| Regulated Entity: | RN102079696 | CITY OF WHITE OAK | Classification: AVERAGE | Site Rating: 0.32 |

| | | | |
|---|---|---|---|
| ID Number(s): | WASTEWATER | PERMIT | WQ0010940001 |
| | WASTEWATER | PERMIT | TPDES0026531 |
| | WASTEWATER | PERMIT | TX0026531 |
| | SLUDGE | REGISTRATION | 21967 |
| | WASTEWATER LICENSING | LICENSE | WQ0010940001 |

Location: LOCATED APPRX 1,500 FT E OF SH 42 AND 3,800 FT S OF US HWY 80, GREGG COUNTY, TX

Rating Date: 9/1/2006
Repeat Violator: NO

TCEQ Region: REGION 05 – TYLER

Date Compliance History Prepared: October 26, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 26, 2001 to October 26, 2006

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

Name: Lynley Doyen Phone: 512-239-1364

## 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 01/14/2003 (174139)
2 06/27/2003 (119134)
3 06/17/2004 (302147)
4 06/17/2005 (421181)
5 06/18/2004 (302149)
6 05/23/2005 (421182)
7 05/23/2005 (421183)
8 08/11/2003 (302151)
9 12/08/2003 (254118)
10 09/05/2003 (302153)
11 02/17/2005 (383352)
12 03/16/2005 (383353)
13 10/09/2003 (302155)
14 12/17/2001 (246859)
15 12/13/2004 (383354)
16 11/12/2003 (302156)
17 12/15/2003 (302157)
18 12/08/2003 (302158)
19 02/16/2006 (471065)
20 03/09/2006 (451703)
21 10/11/2006 (512787)
22 02/14/2002 (174097)
23 03/13/2006 (471066)
24 05/17/2006 (499911)
25 02/17/2003 (174098)
26 08/19/2004 (354802)
27 09/20/2004 (354803)
28 06/19/2006 (499912)
29 10/11/2004 (354804)
30 04/14/2006 (471067)
31 11/08/2004 (354805)
32 03/11/2002 (174100)

33 11/12/2004 (354806)
34 02/21/2006 (471068)
35 03/10/2003 (174101)
36 10/14/2005 (471069)
37 11/14/2005 (471070)
38 04/05/2002 (174105)
39 04/14/2003 (174106)
40 12/14/2005 (471071)
41 10/07/2005 (471072)
42 05/15/2002 (174109)
43 05/09/2003 (174110)
44 06/13/2002 (174113)
45 06/06/2003 (174114)
46 07/11/2002 (174117)
47 07/07/2003 (174118)
48 08/15/2002 (174121)
49 04/27/2006 (464007)
50 09/12/2002 (174124)
51 10/09/2002 (174127)
52 08/17/2005 (442162)
53 09/16/2005 (442163)
54 11/12/2001 (174130)
55 11/14/2002 (174131)
56 12/13/2001 (174134)
57 12/16/2002 (174135)
58 02/05/2004 (302140)
59 03/12/2004 (302142)
60 04/12/2004 (302143)
61 05/10/2004 (302145)
62 04/11/2005 (421179)
63 01/11/2002 (174138)
64 05/18/2005 (421180)

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

Date: 05/31/2005 (421181)

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: 09/30/2003 (302155)

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: 12/17/2001 (246859)

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: 04/30/2006 (499911)

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 (499912)

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: 03/31/2002 (174105)

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: 03/03/2006 (451703)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to obtain a Multi-Sector Industrial Permit for strom water as required for Sector T, Treatment Works, facilities.

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 WHITE OAK** | § | |
| **RN102079696** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2006-1879-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 White Oak (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 system located approximately 1,500 feet east of State Highway 42 and 3,800 feet south of United States Highway 80 in Gregg County, Texas (the "Facility").

2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

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 October 15, 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 Two Thousand Six Hundred Dollars ($2,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Eighty Dollars ($2,080) of the administrative penalty and Five Hundred Twenty Dollars ($520) 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. On June 30, 2006, achieved compliance with the permitted effluent limitations; and

   b. On or around September 30, 2006, finished repairing the aeration rotors in the racetrack.

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 failed to comply with the permitted effluent limitations of 5.0 milligrams per liter ("mg/L") daily average concentration ("avg. conc.") of ammonia nitrogen ("$NH_3$-N") and 7.0 mg/L daily maximum concentration ("max. conc.") of $NH_3$-N, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10940001, Interim Effluent Limitations and Monitoring Requirements No. 1, Outfall 001, as documented during a record review conducted on September 14, 2006. Specifically, the reported values for April 2006 were 6.36 mg/L daily avg. conc. and 13.10 mg/L daily max. conc. and the reported values for May 2006 were 7.16 daily avg. conc. and 17.70 mg/L daily max. conc.

## 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 White Oak, Docket No. 2006-1879-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. 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.

3. 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.

4. 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.

5. 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

_____ 3/7/07
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, 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.

Ralph Weaver 11-21-06
Signature Date

RALPH WEAVER City Coordinator
Name (Printed or typed) Title
Authorized Representative of
City of White Oak

**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.