

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2006-2158-MWD-E **TCEQ ID:** RN101612604 **CASE NO.:** 31890

**RESPONDENT NAME:** City of Childress

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Main Plant, approximately 1/2 mile south of U.S. Highway 287 and approximately one mile east of Farm-to-Market Road 2530, Childress County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 2, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jorge Ibarra, Enforcement Division, Enforcement Section II, MC R-04, (817) 588-5890; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896  <b>Respondent:</b> Mr. Jerry Cummins, City Manager, City of Childress, P.O. Box 1087, Childress, Texas 79201  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> November 3, 2006</p> <p><b>Date of NOE Relating to this Case:</b> November 30, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to comply with permitted limits for carbonaceous biochemical oxygen demand (5-Day) [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010076002, Effluent Limitations and Monitoring Requirement No. 1, TEX. ADMIN. CODE § 305.125 and TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$2,800</p> <p><b>Total Deferred:</b> \$560  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,240</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. WQ0010076002, Effluent Limitations and Monitoring Requirements; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	4-Dec-2006	<b>Screening</b>	6-Dec-2006	<b>EPA Due</b>	
	<b>PCW</b>	8-Dec-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Childress
<b>Reg. Ent. Ref. No.</b>	RN101612604
<b>Facility/Site Region</b>	1-Amarillo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	31890	<b>No. of Violations</b>	1
<b>Docket No.</b>	2006-2158-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$2,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7** **\$1,000**

**Notes** The Respondent was issued two NOV's with the same or similar type of violations and self-reported eight months of effluent violations.

**Culpability** **Subtotal 4** **\$0**

**Notes** Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** **Subtotal 5** **\$0**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes** The Respondent does not meet the good faith criteria.

**0% Enhancement\*** **Subtotal 6** **\$0**

Total EB Amounts	\$74	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,000	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** **-\$200**

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

**Notes** Recommend reduction in penalty amount so that monthly self-reported violations do not overly impact the penalty amount.

**Final Penalty Amount** **\$2,800**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,800**

**DEFERRAL** **Adjustment** **-\$560**

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

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$2,240**

Screening Date 6-Dec-2006

Docket No. 2006-2158-MWD-E

PCW

Respondent City of Childress

Policy Revision 2 (September 2002)

Case ID No. 31890

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101612604

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

### 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)	10	50%
	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 50%

>> 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 was issued two NOVs with the same or similar type of violations and self-reported eight months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

**Screening Date** 6-Dec-2006 **Docket No.** 2006-2158-MWD-E **PCW**  
**Respondent** City of Childress *Policy Revision 2 (September 2002)*  
**Case ID No.** 31890 *PCW Revision December 8, 2006*  
**Reg. Ent. Reference No.** RN101612604  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jorge Ibarra, P.E.

**Violation Number** 1  
**Rule Cite(s)** TPDES Permit No. WQ0010076002, Effluent Limitations and Monitoring Requirement No. 1, Tex. Admin. Code § 305.125 and Tex. Water Code § 26.121(a)  
**Violation Description** Failed to comply with permitted limits for carbonaceous biochemical oxygen demand (5-Day) (CBOD5): See attached Effluent Limit Violation Table.  
**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Using a simplified model, it was determined that 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 the environment as the result of the excursions.

**Adjustment** \$9,000

\$1,000

Violation Events

Number of Violation Events 2      150 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$2,000

Two quarterly events are recommended based on the months the permitted limits were exceeded.

Economic Benefit (EB) for this violation      Statutory Limit Test

**Estimated EB Amount** \$74      **Violation Final Penalty Total** \$2,800

**This violation Final Assessed Penalty (adjusted for limits)** \$2,800

## Economic Benefit Worksheet

**Respondent:** City of Childress  
**Case ID No.:** 31890  
**Reg. Ent. Reference No.:** RN101612604  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$2,000	3-Nov-2006	1-Aug-2007	0.7	\$74	n/a	\$74

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the inspection date. Final Date is the expected date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$2,000

TOTAL \$74





## Compliance History

Customer/Respondent/Owner-Operator:	CN600333769	City of Childress	Classification: AVERAGE	Rating: 2.16
Regulated Entity:	RN101612604	MAIN PLANT	Classification: AVERAGE	Site Rating: 0.45
<hr/>				
ID Number(s):	WASTEWATER	PERMIT	WQ0010076002	
	WASTEWATER	EPA ID	TX0024058	
	WASTEWATER	PERMIT	TX0024058	
	WASTEWATER LICENSING	LICENSE	WQ0010076002	
<hr/>				
Location:	LOCATED APPROXIMATELY .5 MILES S OF US HIGHWAY 287 APPROXIMATELY 1 MILE E OF FM 2530 CHILDRESS CHILDRESS COUNTY TEXAS		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	December 11, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 11, 2001 to December 11, 2006			

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

### 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?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### 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  | 02/11/2005 | (420708) |
| 2  | 07/13/2006 | (521372) |
| 3  | 04/20/2005 | (420709) |
| 4  | 02/06/2006 | (470196) |
| 5  | 05/09/2005 | (420710) |
| 6  | 08/08/2006 | (521373) |
| 7  | 09/18/2006 | (521374) |
| 8  | 06/06/2005 | (420711) |
| 9  | 03/10/2006 | (470197) |
| 10 | 06/06/2005 | (420712) |
| 11 | 03/14/2005 | (373347) |
| 12 | 07/14/2005 | (441709) |
| 13 | 09/19/2005 | (441710) |
| 14 | 10/11/2005 | (470198) |
| 15 | 04/28/2004 | (270188) |
| 16 | 11/17/2005 | (470199) |
| 17 | 03/15/2004 | (353982) |
| 18 | 12/12/2005 | (470200) |
| 19 | 04/06/2004 | (353983) |
| 20 | 05/17/2004 | (353984) |
| 21 | 07/19/2004 | (353985) |
| 22 | 08/18/2004 | (353986) |
| 23 | 01/20/2006 | (470201) |

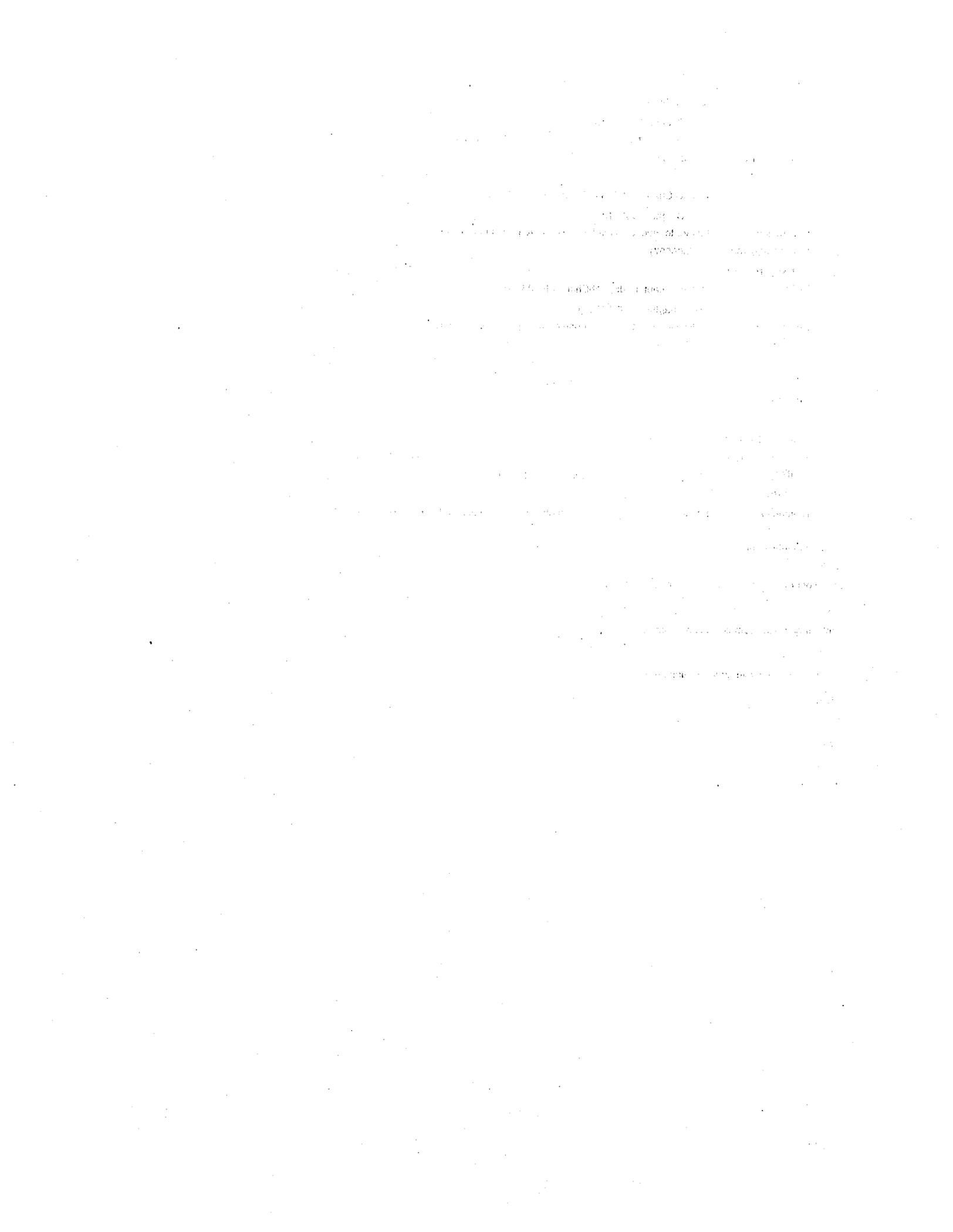
24 09/13/2004 (353987)  
 25 04/14/2006 (499327)  
 26 10/14/2004 (353988)  
 27 05/17/2006 (499328)  
 28 02/23/2004 (263173)  
 29 06/16/2006 (499329)  
 30 02/17/2004 (300006)  
 31 05/12/2003 (300007)  
 32 06/23/2003 (300008)  
 33 06/21/2004 (300009)  
 34 07/17/2003 (300010)  
 35 08/13/2003 (300011)  
 36 01/21/2003 (169112)  
 37 09/11/2003 (300012)  
 38 10/13/2003 (300013)  
 39 12/27/2002 (169111)  
 40 11/12/2003 (300014)  
 41 12/11/2003 (300015)  
 42 11/25/2002 (169110)  
 43 01/20/2004 (300016)  
 44 10/09/2002 (169109)  
 45 09/09/2002 (169108)  
 46 08/16/2002 (169107)  
 47 07/17/2002 (169106)  
 48 07/17/2002 (169105)  
 49 04/07/2003 (169104)  
 50 03/12/2003 (169103)  
 51 02/19/2003 (169102)  
 52 11/29/2006 (518325)  
 53 11/02/2006 (511410)  
 54 03/16/2005 (382901)  
 55 11/18/2004 (382902)  
 56 12/16/2004 (382903)  
 57 01/10/2005 (382904)

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

Date: 06/30/2006 (521372)  
 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: 04/30/2005 (420710)  
 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: 05/31/2005 (420711)  
 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: 02/28/2006 (470197)  
 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: 03/31/2006 (499327)  
 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 (499328)

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 (499329)	
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:	04/30/2003 (300007)	
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:	11/02/2006 (511410)	
Self Report? NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT IA	
Description:	Failure by the facility to meet permitted effluent limits.	
Date:	02/19/2004 (263173)	
Self Report? NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov:	PERMIT IA	
Description:	Failure to maintain CBOD within effluent permit limits for the month of April 2003.	

- 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  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF CHILDRESS  
RN101612604

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2006-2158-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 City of Childress ("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 approximately ½ mile south of U.S. Highway 287 and approximately one mile east of Farm-to-Market Road 2530 in Childress 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 December 4, 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 Eight Hundred Dollars (\$2,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Two Hundred Forty Dollars (\$2,240) of the administrative

Use of the word "and" in the title of the report is not intended to imply that the two items are of equal importance or that they are to be considered as a single unit. The word "and" is used simply to indicate that the two items are to be considered together.

The first item is a report on the work of the committee on the subject of the organization of the department. The second item is a report on the work of the committee on the subject of the organization of the department. The two reports are of equal importance and are to be considered together.

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penalty and Five Hundred Sixty Dollars (\$560) 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 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 permitted limits for carbonaceous biochemical oxygen demand (5-Day) (CBOD5), in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010076002, Effluent Limitations and Monitoring Requirement No. 1, TEX. ADMIN. CODE § 305.125 and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on November 3, 2006 as depicted in the table below.

<i>EFFLUENT PARAMETER</i>	
<i>Permit Limit</i>	
<b>CBOD5 Daily Average</b>	
<i>Month/Year</i>	<b>30 mg/L</b>
02/2006	37.25
03/2006	41.4
04/2006	33.5
05/2006	41
06/2006	35.2

mg/L = milligrams per liter



### 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 Childress, Docket No. 2006-2158-MWD-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with TPDES Permit No. WQ0010076002, Effluent Limitations and Monitoring Requirements; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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

THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
LABORATORY OF ORGANIC CHEMISTRY  
CHICAGO, ILLINOIS

RESEARCH REPORT NO. 1000

BY  
J. H. GOLDSTEIN AND  
R. M. MARSH  
DEPARTMENT OF CHEMISTRY  
UNIVERSITY OF CHICAGO  
CHICAGO, ILLINOIS

Received for consideration, August 15, 1956  
Revised, October 10, 1956  
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0360-3370/57/0000-0000\$02.00

Abstract: The infrared and Raman spectra of the solid state of the  
monomer and dimer of acetylene are reported. The infrared spectrum  
of the monomer shows a strong absorption at 3300 cm<sup>-1</sup> and a  
medium absorption at 2100 cm<sup>-1</sup>. The Raman spectrum of the  
monomer shows a strong line at 3300 cm<sup>-1</sup> and a medium line  
at 2100 cm<sup>-1</sup>. The infrared and Raman spectra of the dimer  
show a strong absorption at 3300 cm<sup>-1</sup> and a medium  
absorption at 2100 cm<sup>-1</sup>. The Raman spectrum of the dimer  
shows a strong line at 3300 cm<sup>-1</sup> and a medium line at  
2100 cm<sup>-1</sup>.

Introduction: Acetylene is a linear molecule with a triple bond  
between the two carbon atoms. The infrared and Raman spectra  
of acetylene in the solid state are reported in this paper.

Experimental: The infrared and Raman spectra were recorded  
on a Perkin-Elmer 521 Grating Infrared Spectrophotometer  
and a Perkin-Elmer 521 Grating Raman Spectrophotometer.  
The infrared spectrum was recorded at room temperature and  
the Raman spectrum was recorded at liquid nitrogen temperature.

References: 1. J. H. Goldstein and R. M. Marsh, *J. Chem. Phys.*,  
26, 1215 (1956). 2. J. H. Goldstein and R. M. Marsh, *J. Chem. Phys.*,  
26, 1225 (1956). 3. J. H. Goldstein and R. M. Marsh, *J. Chem. Phys.*,  
26, 1235 (1956).

with a copy to:

Water Quality Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

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.

# PROBABILITY

CHAPTER 1: INTRODUCTION

1.1. DEFINITIONS

1.1.1. Sample Space: The set of all possible outcomes of an experiment is called the sample space, denoted by  $S$ .

1.1.2. Event: A subset of the sample space is called an event, denoted by  $A$ .

1.1.3. Simple Event: An event consisting of only one outcome is called a simple event.

1.1.4. Compound Event: An event consisting of two or more outcomes is called a compound event.

1.1.5. Mutually Exclusive Events: Two events  $A$  and  $B$  are said to be mutually exclusive if they cannot occur together, i.e.,  $A \cap B = \emptyset$ .

1.1.6. Exhaustive Events: A set of events  $A_1, A_2, \dots, A_n$  is said to be exhaustive if their union covers the entire sample space, i.e.,  $A_1 \cup A_2 \cup \dots \cup A_n = S$ .

1.1.7. Independent Events: Two events  $A$  and  $B$  are said to be independent if the occurrence of one event does not affect the probability of the other event, i.e.,  $P(A|B) = P(A)$  and  $P(B|A) = P(B)$ .

1.1.8. Dependent Events: Two events  $A$  and  $B$  are said to be dependent if the occurrence of one event affects the probability of the other event, i.e.,  $P(A|B) \neq P(A)$  and  $P(B|A) \neq P(B)$ .

1.1.9. Conditional Probability: The probability of an event  $A$  occurring given that another event  $B$  has already occurred is called the conditional probability of  $A$  given  $B$ , denoted by  $P(A|B)$ .

1.1.10. Bayes' Theorem: If  $A_1, A_2, \dots, A_n$  are mutually exclusive and exhaustive events, and  $B$  is an event, then the probability of  $A_i$  given  $B$  is given by:

$$P(A_i|B) = \frac{P(A_i)P(B|A_i)}{P(A_1)P(B|A_1) + P(A_2)P(B|A_2) + \dots + P(A_n)P(B|A_n)}$$

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

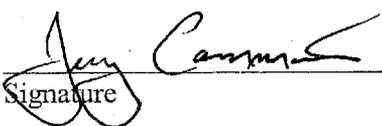
5/15/07  
\_\_\_\_\_  
Date

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.

  
\_\_\_\_\_  
Signature

1-23-07  
\_\_\_\_\_  
Date

Jerry Cummins  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Childress

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.

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