

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0749-IWD-E **TCEQ ID:** RN101607737 **CASE NO.:** 33461

RESPONDENT NAME: City of Garland

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Newman Steam Electric Station, located on the north side of State Highway 66, approximately 2000 feet east of the intersection of State Highway 66 and State Highway 78, Garland, Dallas County</p> <p>TYPE OF OPERATION: Steam electric wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Ronald E. Jones, Mayor, City of Garland, P. O. Box 469002, Garland, Texas 75046-9002 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

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 of Investigation Relating to this Case: March 13, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 25, 2007 (NOE)</p> <p>Background Facts: This was a routine records review investigation. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with the permitted total copper daily maximum effluent limit of 0.093 milligrams per liter ("mg/L") for outfall 002 in June and August 2006. The reported values were 0.19 mg/L and 0.148 mg/L, respectively [30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 03519 Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$6,000</p> <p>Total Deferred: \$1,200 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,800</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Submit a Water Effects Ratio Study ("WERS") for total copper to determine if the total copper limits established in TPDES Permit No. 03519 are higher than necessary to protect aquatic life in the receiving stream; and</p> <p>ii. Prepare and submit a major permit amendment for an increase in the total copper permit limits if the WERS results are approved and indicate such a request is warranted.</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any deadline specified in writing.</p> <p>c. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Submit written certification of compliance with Ordering Provisions a. and b.; or</p> <p>ii. Submit a report that the WERS results do not support a major permit amendment and no such amendment will be submitted.</p> <p>d. Within 380 days after the effective date of this Agreed Order:</p> <p>i. If a major permit amendment application was submitted as described in Ordering Provision a.ii. above, then submit written certification of compliance as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with TPDES Permit No. 03519 total copper effluent limits; or</p> <p>ii. If a major permit amendment application was not submitted, then submit</p>

		written certification of compliance that all necessary corrective actions to ensure compliance with the total copper effluent limits of TPDES Permit No. 03519 have been completed or cease all discharges from the Facility.
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Additional ID No(s): TPDES Permit No. 03519



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES

Assigned	25-Apr-2007	Screening	9-May-2007	EPA Due	
PCW	31-May-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Garland		
Reg. Ent. Ref. No.	RN101607737		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33461	No. of Violations	1
Docket No.	2007-0749-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 20% Enhancement Subtotals 2, 3, & 7 \$1,000

Notes: The Respondent has four months of self-reported effluent violations.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

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

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

Total EB Amounts 0% Enhancement* Subtotal 6 \$0
 *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance \$4,085
\$25,000

SUM OF SUBTOTALS 1-7 Final Subtotal \$6,000

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 \$6,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$6,000

DEFERRAL 20% Reduction Adjustment -\$1,200

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 \$4,800

Screening Date 9-May-2007

Docket No. 2007-0749-IWD-E

PCW

Respondent City of Garland

Policy Revision 2 (September 2002)

Case ID No. 33461

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101607737

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%
	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%
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) 20%

>> 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 has four months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 9-May-2007

Docket No. 2007-0749-IWD-E

PCW

Respondent City of Garland

Policy Revision 2 (September 2002)

Case ID No. 33461

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101607737

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. 03519 Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with the permitted total copper daily maximum effluent limit of 0.093 milligrams per liter ("mg/L") for outfall 002 in June and August 2006. The reported values were 0.19 mg/L and 0.148 mg/L, respectively.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

A simplified model was utilized to evaluate the values of copper and flow to determine whether the discharged amounts of pollutant (copper) exceeded levels protective of human health or the environment. The amounts discharged at the time were significant and did not exceed levels that are protective of human health or the environment.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended.

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 Garland
Case ID No. 33461
Reg. Ent. Reference No. RN101607737
Media Water Quality
Violation No. 1

Years of Depreciation
15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	EB Amount
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	EB Amount
Equipment				0.0	\$0	\$0
Buildings				0.0	\$0	\$0
Other (as needed)				0.0	\$0	\$0
Engineering/construction	\$25,000	1-Jun-2006	30-Sep-2008	2.3	\$195	\$4,085
Land				0.0	\$0	\$0
Record Keeping System				0.0	\$0	\$0
Training/Sampling				0.0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0
Permit Costs				0.0	\$0	\$0
Other (as needed)				0.0	\$0	\$0

Notes for DELAYED costs

This is the estimated costs to prepare a copper effects ratio study and apply for a major permit amendment to increase the copper limits at the Facility. Date Required is the initial month of noncompliance. Final Date is the anticipated 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	EB Amount
Disposal				0.0	\$0	\$0
Personnel				0.0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0
Other (as needed)				0.0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$25,000	TOTAL	\$4,085
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Compliance History

Customer/Respondent/Owner-Operator:	CN600328694	City of Garland	Classification: AVERAGE	Rating: 3.43
Regulated Entity:	RN101607737	NEWMAN SES	Classification: AVERAGE	Site Rating: 0.12
ID Number(s):	WASTEWATER	PERMIT		WQ0003519000
	WASTEWATER	PERMIT		TPDES0109568
	WASTEWATER	PERMIT		TX0109568
	WASTEWATER	EPA ID		TX0109568
	WASTEWATER	LICENSING	LICENSE	WQ0003519000
Location:	NORTH SIDE OF STATE HIGHWAY 66, APPROXIMATELY 2000 FEET EAST OF THE INTERSECTION OF STATE HIGHWAY 66 AND STATE HIGHWAY 78, GARLAND, DALLAS COUNTY		Rating Date: September 01 06	Repeat Violator:
			NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	May 07, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 07, 2002 to May 07, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Pamela Campbell Phone: 512 239-4493

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/15/2002	(226634)
2 09/12/2002	(226637)
3 10/10/2002	(226640)
4 01/15/2003	(226652)
5 02/03/2003	(226649)
6 02/03/2003	(226650)
7 02/03/2003	(226651)
8 02/03/2003	(226653)
9 02/03/2003	(226611)
10 02/03/2003	(226612)
11 02/03/2003	(226613)
12 02/03/2003	(226615)
13 02/03/2003	(226616)
14 02/03/2003	(226618)
15 02/03/2003	(226619)
16 02/03/2003	(226620)
17 02/03/2003	(226621)
18 02/03/2003	(226623)
19 02/03/2003	(226624)
20 02/03/2003	(226625)
21 02/03/2003	(226627)
22 02/03/2003	(226628)
23 02/03/2003	(226629)
24 02/03/2003	(226630)
25 02/03/2003	(226631)
26 02/03/2003	(226636)
27 02/03/2003	(226638)
28 02/03/2003	(226639)
29 02/03/2003	(226643)
30 02/03/2003	(226644)
31 02/03/2003	(226646)
32 02/03/2003	(226647)
33 02/03/2003	(226648)
34 02/14/2003	(226614)
35 03/12/2003	(226617)
36 04/14/2003	(226622)
37 05/12/2003	(324062)
38 05/19/2003	(37921)
39 06/11/2003	(324063)
40 07/10/2003	(324065)
41 08/11/2003	(324066)

42	09/10/2003	(324067)
43	10/16/2003	(324068)
44	11/12/2003	(324069)
45	12/11/2003	(324070)
46	01/12/2004	(324071)
47	02/11/2004	(324059)
48	03/11/2004	(324060)
49	04/12/2004	(324061)
50	05/12/2004	(365001)
51	06/17/2004	(324064)
52	07/12/2004	(365002)
53	08/18/2004	(365003)
54	09/15/2004	(365004)
55	10/15/2004	(389028)
56	11/10/2004	(389029)
57	01/13/2005	(389030)
58	02/10/2005	(426615)
59	03/14/2005	(389027)
60	04/14/2005	(426616)
61	05/18/2005	(426617)
62	06/13/2005	(426618)
63	07/11/2005	(446862)
64	08/10/2005	(446863)
65	09/12/2005	(446864)
66	10/03/2005	(490687)
67	11/14/2005	(490688)
68	12/14/2005	(490689)
69	01/11/2006	(490690)
70	02/15/2006	(490685)
71	03/10/2006	(490686)
72	04/20/2006	(505443)
73	05/08/2006	(505444)
74	06/26/2006	(505445)
75	07/24/2006	(527727)
76	08/30/2006	(527728)
77	09/27/2006	(527729)
78	11/15/2006	(515148)
79	04/25/2007	(543969)

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

Date: 08/31/2005 (446864)

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: 09/30/2005 (490687)

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: 06/30/2006 (527727)

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: 08/31/2006 (527729)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GARLAND
RN101607737**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0749-IWD-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 Garland ("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 the Newman steam electric station wastewater treatment plant located on the north side of State Highway 66, approximately 2000 feet east of the intersection of State Highway 66 and State Highway 78 in Garland, Dallas County, Texas (the "Facility").
2. The City has discharged industrial waste 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 April 30, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Dollars (\$6,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Four Thousand Eight Hundred Dollars (\$4,800) of the administrative penalty and One

Thousand Two Hundred Dollars (\$1,200) 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 its permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 03519 Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 13, 2007. Specifically, the City failed to comply with its permitted total copper daily maximum effluent limit of 0.093 milligrams per liter ("mg/L") for outfall 002 in June and August 2006. The reported values were 0.19 mg/L and 0.148 mg/L, respectively.

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 Garland, Docket No. 2007-0749-IWD-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 90 days after the effective date of this Agreed Order:
 - i. Submit a Water Effects Ratio Study ("WERS") for total copper to determine if the total copper limits established in TPDES Permit No. 03519 are higher than necessary to protect aquatic life in the receiving stream; and
 - ii. Prepare and submit a major permit amendment for an increase in the total copper permit limits if the WERS results are approved and indicate such a request is warranted.
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any deadline specified in writing.
 - c. Within 180 days after the effective date of this Agreed Order:
 - i. Submit written certification of compliance with Ordering Provision Nos. 2.a. and 2.b., as described in Ordering Provision No. 2.e. below; or
 - ii. Submit a report that the WERS results do not support a major permit amendment and no such amendment will be submitted.
 - d. Within 380 days after the effective date of this Agreed Order:
 - i. If a major permit amendment application was submitted as described in Ordering Provision No. 2.a.ii. above, then submit written certification of compliance as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with TPDES Permit No. 03519 total copper effluent limits; or

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- ii. If a major permit amendment application was not submitted, then submit written certification of compliance that all necessary corrective actions to ensure compliance with the total copper effluent limits of TPDES Permit No. 03519 have been completed or cease all discharges from the Facility.
- e. The certification required by Ordering Provision Nos. 2.c. and 2.d., shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section,
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/28/2007

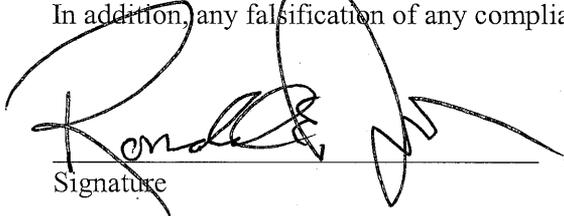
Date

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

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

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

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



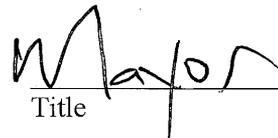
Signature

10-16-2007

Date

RONALD E. JONES

Name (Printed or typed)
Authorized Representative of
City of Garland



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.

Handwritten text, possibly a list or notes, located in the upper middle section of the page. The text is very faint and difficult to read.

Handwritten text, possibly a signature or name, located in the lower left quadrant.

Handwritten text, possibly a date or reference number, located below the signature.

Handwritten text, possibly a date or reference number, located in the lower right quadrant.

