EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1044-WQ-E **TCEQ ID:** RN101408334 **CASE NO.:** 34080

RESPONDENT NAME: City of DeSoto

ORDER TYPE:		
__1660 AGREED ORDER	_X_FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
_X_WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Desoto, 620 North Westmoreland Road, in DeSoto, Dallas County, Texas, with a line located at the 700 block of Pleasant Run Road, Desoto, Dallas County

TYPE OF OPERATION: Wastewater collection system

SMALL BUSINESS: ____ **Yes** ___ **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 December 31, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2505; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. James Baugh, City Manager, City of DeSoto, 620 North Westmoreland Road, Desoto, Texas 75115

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 _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** April 3, 2007 **Date of NOV/NOE Relating to this Case:** June 20, 2007 (NOE) **Background Facts:** This was a routine investigation of a sewer overflow. Two violations were documented. **WATER** 1) Failure to prevent the unauthorized discharge of wastewater into water in the state, as documented during an investigation conducted on April 3, 2007. Specifically, due to blockage in a line that was exacerbated due to a significant rainfall event, approximately 1,000,000 gallons of raw wastewater was discharged from two manholes into Ten Mile Creek beginning on March 31, 2007 [TEX. WATER CODE § 26.121(a)]. 2) Failure to provide notification of a spill to local government officials, the news media, and the TCEQ regional office within 24 hours after becoming aware of the discharge which began on March 31, 2007. The TCEQ regional office was notified orally on April 2, 2007 and a written report was received on April 3, 2007, and the news media was notified on April 5, 2007 [TEX. WATER CODE § 26.039(b) and (e) and 30 TEX. ADMIN. CODE § 319.302(b) and (c)].	**Total Assessed:** $18,825 **Total Deferred:** $0 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $18,825 **Site Compliance History Classification** _X_ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** Unauthorized discharge resulting in a fish kill.	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. On April 2, 2007, orally notified the TCEQ of the discharge; b. On April 3, 2007, provided written notification to the TCEQ; c. On April 5, 2007, provided documentation that public notification was submitted to the local newspaper; d. On April 5, 2007, bypassed the line and ceased discharge; and e. On April 17, 2007, completed cleanup and all repairs to the sewer lines.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 26, 2007*

TCEQ

DATES					
Assigned	25-Jun-2007				
PCW	5-Jul-2007	Screening	2-Jul-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of DeSoto		
Reg. Ent. Ref. No.	RN101408334		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34080	No. of Violations	2
Docket No.	2007-1044-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$25,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 0% Enhancement — *Subtotals 2, 3, & 7* **$0**

Notes: No change due to Average Performer classification.

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* **$6,275**

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

Notes: The Respondent returned to compliance on April 17, 2007.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$12
Approx. Cost of Compliance	$5,150

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$18,825**

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 **$18,825**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$18,825**

DEFERRAL — 0% Reduction — *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$18,825**

Screening Date 2-Jul-2007 **Docket No.** 2007-1044-WQ-E **PCW**

Respondent City of DeSoto *Policy Revision 2 (September 2002)*

Case ID No. 34080 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN101408334

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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*)	0	0%
	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%

		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) 0%

>> 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

No change due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 2-Jul-2007 **Docket No.** 2007-1044-WQ-E **PCW**

Respondent City of DeSoto *Policy Revision 2 (September 2002)*

Case ID No. 34080 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN101408334

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)

Violation Description Failed to prevent the unauthorized discharge of wastewater into water in the state, as documented during an investigation conducted on April 3, 2007. Specifically, due to blockage in a line that was exacerbated due to a significant rainfall event, approximately 1,000,000 gallons of raw wastewater was discharged from two manholes into Ten Mile Creek beginning on March 31, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to significant amounts of pollutants as a result of this violation.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events 5 | 5 Number of violation days

mark only one with an x

daily	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $25,000

Five daily events are recommended for each day of discharge.

Economic Benefit (EB) for this violation

Estimated EB Amount $12

Statutory Limit Test

Violation Final Penalty Total $18,750

This violation Final Assessed Penalty (adjusted for limits) $18,750

Economic Benefit Worksheet

Respondent City of DeSoto
Case ID No. 34080
Reg. Ent. Reference No. RN101408334
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$5,000	31-Mar-2007	17-Apr-2007	0.0	$12	n/a	$12

Notes for DELAYED costs: The estimated cost to repair the 10 inch pipe that was clogged. Date required is the date the discharge began and the final date is the date that the repairs were completed.

Avoided Costs							
	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $5,000

TOTAL: $12

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Screening Date 2-Jul-2007 **Docket No.** 2007-1044-WQ-E

Respondent City of DeSoto

Case ID No. 34080

Reg. Ent. Reference No. RN101408334

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.039(b) and (e) and 30 Tex. Admin. Code § 319.302(b) and (c)

Violation Description Failed to provide notification of a spill to local government officials, the news media, and the TCEQ regional office within 24 hours after becoming aware of the discharge which began on March 31, 2007. The TCEQ regional office was notified orally on April 2, 2007 and a written report was received on April 3, 2007, and the news media was notified on April 5, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: 70% of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1

5 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $75

This violation Final Assessed Penalty (adjusted for limits) $75

Economic Benefit Worksheet

Respondent City of DeSoto
Case ID No. 34080
Reg. Ent. Reference No. RN101408334
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$150	1-Apr-2007	5-Apr-2007	0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	The estimated cost associated with notifying local officials, media, and the TCEQ regional office. Date required is the date notice was due and the final date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $150

TOTAL: $0

Compliance History

Customer/Respondent/Owner-Operator:	CN600440952	City Of DeSoto	Classification: AVERAGE	Rating: 1.80
Regulated Entity:	RN101408334	CITY OF DESOTO	Classification: HIGH	Site Rating: 0.00

ID Number(s):	UTILITIES	REGISTRATION	11432
Location:	620 N WESTMORELAND RD, DESOTO, TX, 75115 (700 block of Pleasant Run Road)	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	July 02, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 02, 2002 to July 02, 2007		

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

Name: Samuel Short Phone: (512) 239-5363

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 05/31/2006 (466977)
2 05/31/2006 (463505)
3 05/18/2007 (559845)
4 06/20/2007 (563547)

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

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 DESOTO	§	
RN101408334	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1044-WQ-E

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 DeSoto ("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 presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a collection system at 620 North Westmoreland Road, in DeSoto, Dallas County, Texas, with a line located at the 700 block of Pleasant Run Road (the "Facility").

2. The City has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. During an investigation on April 3, 2007, TCEQ staff documented the unauthorized discharge of wastewater. Specifically, due to blockage in a line that was exacerbated due to a significant rainfall event, approximately 1,000,000 gallons of raw wastewater was discharged from two manholes into Ten Mile Creek beginning on March 31, 2007.

4. During an investigation on April 3, 2007, TCEQ staff documented that the City failed to provide notification of a spill to local government officials, the news media, and the TCEQ regional office within 24 hours after becoming aware of the discharge which began on March 31, 2007. The TCEQ regional office was notified orally on April 2, 2007 and a written report was received on April 3, 2007, and the news media was notified on April 5, 2007.

5. The City received notice of the violations on June 25, 2007.

6. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:

   a. On April 2, 2007, orally notified the TCEQ of the discharge;

   b. On April 3, 2007, provided written notification to the TCEQ;

   c. On April 5, 2007, provided documentation that public notification was submitted to the local newspaper;

   d. On April 5, 2007, bypassed the line and ceased discharge; and

   e. On April 17, 2007, completed cleanup and all repairs to the sewer lines.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the City failed to prevent the unauthorized discharge of wastewater into water in the state, in violation of TEX. WATER CODE § 26.121(a).

3. As evidenced by Findings of Fact No. 4, the City failed to provide notification of a spill to local government officials, the news media, and the TCEQ regional office within 24 hours after becoming aware of the discharge which began on March 31, 2007, in violation of TEX. WATER CODE § 26.039(b) and (e) and 30 TEX. ADMIN. CODE § 319.302(b) and (c).

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

5. An administrative penalty in the amount of Eighteen Thousand Eight Hundred Twenty-Five Dollars ($18,825) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The City has paid the Eighteen Thousand Eight Hundred Twenty-Five Dollar ($18,825) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Eighteen Thousand Eight Hundred Twenty-Five Dollars ($18,825) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of DeSoto, Docket No. 2007-1044-WQ-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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

4. 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.

5. 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.

6. 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.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

12/11/2007
Date

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

I understand that by entering into this Agreed Order, City of DeSoto waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

10-22-07
Date

JIM B. BAUGH
Name (Printed or typed)
Authorized Representative of
City of DeSoto

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.