

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1359-MWD-E **TCEQ ID:** RN102078128 **CASE NO.:** 34481
RESPONDENT NAME: City of Liberty

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: City of Liberty Wastewater Treatment Plant, approximately 0.5 mile west of the intersection of Farm-to-Market Road 2684 and Farm-to-Market Road 3361, Liberty County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment facility</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 November 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Carl Pickett, Mayor, City of Liberty, 1829 Sam Houston Street, Liberty, Texas 77575 Mr. Harvey R. Joiner Jr., Public Works Director, City of Liberty, 1829 Sam Houston Street, Liberty, Texas 77575 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED <small>0001 X</small>
<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: July 27, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 16, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with the permitted effluent limitations for total ammonia nitrogen, total mercury, and carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10108001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$3,350</p> <p>Total Deferred: \$670 <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: \$2,680</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10108001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TX0074284 and WQ0010108001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

DATES	Assigned	20-Aug-2007			
	PCW	21-Aug-2007	Screening	22-Aug-2007	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Liberty
Reg. Ent. Ref. No.	RN102078128
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	34481	No. of Violations	1	
Docket No.	2007-1359-MVD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Libby Hogue	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
---	-------------------	----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	34% Enhancement	Subtotals 2, 3, & 7	\$850
---------------------------	------------------------	--------------------------------	--------------

Notes: A 34% enhancement is recommended for having six NOVs for self reported effluent data and two NOVs for other violations within the past five years.

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.

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

Total EB Amounts	\$63	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,350
-----------------------------	-----------------------	----------------

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	\$3,350
-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,350
-----------------------------------	-------------------------------	----------------

DEFERRAL	20% Reduction	Adjustment	-\$670
-----------------	----------------------	-------------------	---------------

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	\$2,680
------------------------	----------------

Screening Date 22-Aug-2007

Docket No. 2007-1359-MWD-E

PCW

Respondent City of Liberty

Policy Revision 2 (September 2002)

Case ID No. 34481

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102078128

Media [Statute] Water Quality

Enf. Coordinator Libby Hogue

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 (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgments or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 34%

>> 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

A 34% enhancement is recommended for having six NOVs for self reported effluent data and two NOVs for other violations within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date 22-Aug-2007	Docket No. 2007-1359-MWD-E	PCW
Respondent City of Liberty	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34481	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN102078128		
Media [Statute] Water Quality		
Enf. Coordinator Libby Hogue		
Violation Number 1		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10108001, Effluent Limitations and Monitoring Requirements No. 1	
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review conducted on July 27, 2007. See Table - Attachment.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="0%"/>

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand ("CBOD"), total ammonia nitrogen, nitrogen ammonia, and mercury to determine whether the discharged amounts of the pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is 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 Liberty
 Case ID No. 34481
 Reg. Ent. Reference No. RN102078128
 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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	28-Feb-2007	30-May-2008	1.3	\$63	n/a	\$63

Notes for DELAYED costs
 The estimated cost for additional oversight and sampling to reduce or alleviate the exceedances. Date required is the date the noncompliance started and the final date is the date the respondent is anticipated to achieve 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

\$1,000

TOTAL

\$63

ATTACHMENT

Effluent Violation Table
 City of Liberty
 TPDES Permit No. 10108001 (Outfall 001A)
 Docket No. 2007-1359-MWD-E

Permitted Effluent Limits	Monitoring Period End Date	
	02/28/2007	03/31/2007
Total Ammonia Nitrogen Daily avg. 2 mg/L	3.54	4.66
Total Ammonia Nitrogen Daily max. 10 mg/L	14.4	14.8
Total Ammonia Nitrogen Daily avg. loading 42 lbs/day	46.54	61.73
Total Mercury 0.00021 mg/L	C	0.00022
CBOD Daily max. 25 mg/L	C	40.20

Avg. = average	Max. = maximum
mg/L = milligrams per liter	lbs/day = pounds per day
C = compliant	
CBOD = carbonaceous biochemical oxygen demand	



Compliance History

Customer/Respondent/Owner-Operator: CN600575278 City of Liberty Classification: AVERAGE Rating: 1.85

Regulated Entity: RN102078128 CITY OF LIBERTY WASTEWATER TREATMENT PLANT Classification: AVERAGE Site Rating: 0.26

ID Number(s):
 WASTEWATER PERMIT WQ0010108001
 WASTEWATER PERMIT TPDES0074284
 WASTEWATER PERMIT TX0074284
 WASTEWATER LICENSING LICENSE WQ0010108001

Location: APPRX. 0.5 MILE WEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 2684 AND FARM-TO-MARKET ROAD 3361 IN LIBERTY COUNTY, TEXAS. Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 20, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 20, 2002 to August 20, 2007

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

Name: Libby Hogue Phone: 512-239-1165

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 09/09/2002 (200284)
 - 2 10/10/2002 (200287)
 - 3 11/18/2002 (200291)
 - 4 12/12/2002 (200295)
 - 5 01/15/2003 (200299)
 - 6 02/13/2003 (200258)
 - 7 03/21/2003 (200261)
 - 8 04/07/2003 (200266)
 - 9 05/12/2003 (200270)
 - 10 06/06/2003 (200274)
 - 11 07/10/2003 (200278)
 - 12 08/28/2003 (313251)
 - 13 09/09/2003 (313253)
 - 14 10/14/2003 (313255)

15	11/14/2003	(313256)
16	12/09/2003	(313257)
17	01/16/2004	(313258)
18	02/17/2004	(313240)
19	03/12/2004	(313242)
20	04/12/2004	(313243)
21	05/14/2004	(268704)
22	05/17/2004	(313249)
23	05/17/2004	(313245)
24	06/08/2004	(313247)
25	08/30/2004	(359374)
26	09/17/2004	(359375)
27	10/15/2004	(359376)
28	11/10/2004	(385934)
29	12/02/2004	(385936)
30	12/13/2004	(385935)
31	02/11/2005	(385932)
32	03/07/2005	(385933)
33	04/11/2005	(423851)
34	05/06/2005	(423854)
35	05/16/2005	(423852)
36	06/10/2005	(423853)
37	08/19/2005	(444657)
38	09/12/2005	(444658)
39	10/14/2005	(475429)
40	11/14/2005	(475430)
41	12/01/2005	(475432)
42	12/16/2005	(475431)
43	02/14/2006	(475427)
44	03/20/2006	(475428)
45	04/13/2006	(502904)
46	05/10/2006	(502905)
47	05/15/2006	(460831)
48	05/18/2006	(502907)
49	06/14/2006	(502906)
50	08/18/2006	(525241)
51	09/18/2006	(550025)
52	10/06/2006	(514177)
53	10/13/2006	(550026)
54	11/15/2006	(550027)
55	11/27/2006	(550029)
56	12/11/2006	(533389)
57	12/14/2006	(550028)
58	01/31/2007	(537332)
59	02/07/2007	(539182)
60	08/17/2007	(570262)

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

Date 09/30/2002 (200287)

Self Report? YES

Classification: Moderate

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

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

Date 06/30/2003 (200278)

Self Report? YES

Classification: Moderate

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

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

Date 12/31/2005 (475432)

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 05/15/2006 (460831)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT Monitoring & Reporting, P. 4, No. 3a

Description: Failure to properly maintain the flow measuring devices.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.6
30 TAC Chapter 319, SubChapter A 319.9(c)

Description: Failure to perform the required quality assurance/quality control (QA/QC) procedures for total chlorine residual.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.6(b)(1)(D)

Description: Failure to provide self-contained breathing apparatus (SCBA) for use by plant personnel as required.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to correctly calculate the effluent loadings on the December 2005 discharge monitoring report (DMR).

Date 05/31/2006 (502906)

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 10/06/2006 (514177)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter C 319.302(c)

Description: Failure to submit a public notice of a spill that is greater than 100,000 to the local media.

Date 02/28/2007

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 03/31/2007

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 LIBERTY
RN102078128**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1359-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 Liberty ("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 domestic wastewater treatment facility located approximately 0.5 mile west of the intersection of Farm-to-Market Road 2684 and Farm-to-Market Road 3361 in Liberty County, Texas (the "Facility").
2. The City has discharged municipal 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 August 21, 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 Three Thousand Three Hundred Fifty Dollars (\$3,350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Six Hundred Eighty Dollars (\$2,680) of the administrative penalty and Six Hundred Seventy Dollars (\$670) 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 the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10108001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 27, 2007, and as indicated in the table below.

Effluent Violation Table City of Liberty TPDES Permit No. 10108001 (Outfall 001A)		
Permitted Effluent Limits	Monitoring Period End Date	
	02/28/2007	03/31/2007
Total Ammonia Nitrogen Daily avg. 2 mg/L	3.54	4.66
Total Ammonia Nitrogen Daily max. 10 mg/L	14.4	14.8
Total Ammonia Nitrogen Daily avg. loading 42 lbs/day	46.54	61.73
Total Mercury 0.00021 mg/L	C	0.00022
CBOD Daily max. 25 mg/L	C	40.20

Avg. = average	Max. = maximum
mg/L = milligrams per liter	lbs/day = pounds per day
C = compliant	
CBOD = carbonaceous biochemical oxygen demand	

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 Liberty, Docket No. 2007-1359-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, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10108001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

John Soller

For the Executive Director

12/03/2007

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.

Harvey R. Joiner Jr.

Signature

10-3-07

Date

Harvey R. Joiner Jr.

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

Public Works Director

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.

