

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: March 23, 2005</p> <p>Date of NOV/NOE Relating to this Case: January 31, 2004, February 28, 2004, March 31, 2004, May 31, 2004, August 31, 2004, and December 31, 2004 (NOVs) and April 18, 2005 (NOE)</p> <p>Background Facts: An EDPRP was filed in this matter on January 26, 2006. The Respondent filed an Answer on February 6, 2006. On or about May 25, 2007, the parties reached a settlement of this matter, and a signed Agreed Order was received on or about June 6, 2007.</p> <p>The Respondent does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MWD:</p> <ol style="list-style-type: none"> Failed to provide monitoring results at the intervals specified in the permit, as documented on March 23, 2005. Specifically, the Discharge Monitoring Reports ("DMR") for February, September, October, November and December 2004 were not submitted as required. Additionally, Lott failed to report pH maximum on the July 2004 DMR, as documented on March 23, 2005 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010017001, Reporting and Monitoring Requirements Nos. 1 and 3]. Failed to comply with permitted effluent limits during January, February, March, May, August, and December 2004 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010017001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3]. 	<p>Total Assessed: \$10,350</p> <p>Total Deferred: \$0</p> <p>Total Paid to General Revenue: \$10,350</p> <p>The Respondent has paid the assessed penalty in the amount of \$10,350 in full.</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>Corrective Action(s):</p> <p>The Respondent came into compliance on February 28, 2005 with permitted effluent limits and submitted the missing DMR data on May 9, 2005 for February, July, September, October, November and December 2004. In addition, aerators were installed on December 20, 2004 to facilitate the transfer of oxygen to decrease the biochemical oxygen demand exceedences.</p>



Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 03, 2005

DATES	Assigned	25-Apr-2005	Screening	05-May-2005	Priority Due	24-Jun-2005	EPA Due	
	PCW	07-Jan-2008						

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Lott
Reg. Ent. Ref. No.	RN103119046
Facility/Site Region	9-Waco
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	25439	No. of Violations	2
Docket No.	2005-0838-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		<i>(mark with a small x)</i>

Notes

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$74"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,350"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Reduction Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 05-May-2005

Docket No. 2005-0838-MWD-E

PCW

Respondent City of Lott

Policy Revision 2 (September 2002)

Case ID No. 25439

PCW Revision May 03, 2005

Reg. Ent. Reference No. RN103119046

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 <i>(number of NOVs meeting criteria)</i>	28	140%
	Other written NOVs	0	0%
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 judgements 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)</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) 140%

>> **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

Enhancement for 28 self-reported NOV's for the same violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 140%

Screening Date 05-May-2005

Docket No. 2005-0838-MWD-E

PCW

Respondent City of Lott

Policy Revision 2 (September 2002)

Case ID No. 25439

PCW Revision May 03, 2005

Reg. Ent. Reference No. RN103119046

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Primary Rule Cite(s)

30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010017001, Reporting and Monitoring Requirements Nos. 1 and 3.

Secondary Rule Cite(s)

Violation Description

Failure to provide monitoring results at the intervals specified in the permit for February, September, October, November and December 2004 and to report pH maximum on the July 2004 DMR, as documented during a record review conducted on March 23, 2005.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1%"/>

Matrix Notes

Greater than 70% of the requirement was met.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Six single events are recommended for the non-submittal of DMR data for the months of February, July, September, October, November and December 2004.

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 Lott
Case ID No. 25439

Reg. Ent. Reference No. RN103119046
Media [Statute] 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
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	29-Feb-2004	09-May-2005	1.2	\$9	n/a	\$9
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: Estimated cost associated with preparing and submitting DMRs. Date required is the first month of non-submittal. Final date is the date the DMRs were submitted.

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 \$9

Screening Date 05-May-2005	Docket No. 2005-0838-MWD-E	PCW	
Respondent City of Lott		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 25439		<i>PCW Revision May 03, 2005</i>	
Reg. Ent. Reference No. RN103119046			
Media [Statute] Water Quality			
Enf. Coordinator Pamela Campbell			
Violation Number <input type="text" value="2"/>			
Primary Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010017001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3.		
Secondary Rule Cite(s)			
Violation Description	Failure to comply with permitted effluent limits during January, February, March, May, August and December 2004, as documented during a record review conducted on March 23, 2005.		
	Base Penalty	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
	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="10%"/>
OR			
>> Programmatic Matrix			
Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text"/>
Matrix Notes	A simplified model was utilized to evaluate the values for BOD 5-day to determine whether the discharged amounts of pollutants exceeded protected levels. In addition, pH was also considered. The amounts discharged at the time of the violations were insignificant and did not exceed protective levels.		
	Adjustment	<input type="text" value="-\$9,000"/>	
	Base Penalty Subtotal	<input type="text" value="\$1,000"/>	
Violation Events			
Number of Violation Events	<input type="text" value="4"/>		
mark only one use a small x	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 <input type="text" value="\$4,000"/>	
Four quarterly events are recommended.			
Economic Benefit (EB) for this violation	Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$65"/>	Violation Final Penalty Total	<input type="text" value="\$9,000"/>	
	This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$9,000"/>	

Economic Benefit Worksheet

Respondent City of Lott
Case ID-No. 25439

Reg. Ent. Reference No. RN103119046
Media [Statute] Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	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	\$1,200	31-Jan-2004	28-Feb-2005	1.1	\$65	n/a	\$65
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: Estimated cost for additional oversight and sampling which might have reduced or alleviated the exceedances. The date required is the first non-compliance documented during the record review 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 \$1,200 TOTAL \$65

Compliance History

Customer/Respondent/Owner-Operator: CN601119191 City of Lott Classification: AVERAGE Rating: 2.670

Regulated Entity: RN103119046 CITY OF LOTT Classification: AVERAGE Site Rating: 1.67

ID Number(s): WASTEWATER LICENSING LICENSE WQ0010017001
 WASTEWATER PERMIT TX0053376
 WASTEWATER PERMIT TPDES0053376
 WASTEWATER PERMIT WQ0010017001

Location: AVENUE G BETWEEN BONE BRANCH AND THE SOUTHERN PACIFIC RAILROAD, LOTT, FALLS COUNTY, TEXAS Rating Date: 9/1/04 Repeat Violator: NO

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: May 26, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 26, 2000 to May 26, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Ruben Soto Phone: (512) 239-4571

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 |
| 6. Comments: | |

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 11/15/2004 (384353)
- 2 11/15/2004 (384354)
- 3 11/15/2004 (384355)
- 4 11/15/2004 (384356)
- 5 11/15/2004 (384357)
- 6 03/01/2002 (184705)
- 7 05/25/2004 (384358)
- 8 03/21/2002 (184706)
- 9 11/15/2004 (384359)
- 10 05/13/2002 (184709)
- 11 04/21/2005 (375227)
- 12 05/30/2000 (184710)
- 13 07/23/2002 (184711)
- 14 06/30/2000 (184712)
- 15 05/25/2004 (356571)
- 16 07/23/2002 (184713)
- 17 05/25/2004 (356572)
- 18 08/04/2000 (184714)
- 19 05/25/2004 (356573)
- 20 09/13/2002 (184715)
- 21 05/25/2004 (356574)
- 22 08/30/2000 (184716)
- 23 05/25/2004 (356575)
- 24 09/12/2002 (184717)

~~25 10/03/2000 (184718)~~
 26 05/25/2004 (356576)
 27 03/27/2003 (184719)
 28 11/15/2001 (184720)
 29 02/24/2004 (356577)
 30 03/27/2003 (184721)
 31 03/27/2003 (184722)
 32 05/25/2004 (356578)
 33 01/16/2001 (184723)
 34 05/25/2004 (356579)
 35 03/27/2003 (184724)
 36 05/25/2004 (356580)
 37 05/25/2004 (356581)
 38 02/20/2001 (184725)
 39 05/25/2004 (356582)
 40 03/01/2002 (184726)
 41 03/27/2003 (184727)
 42 05/09/2001 (113709)

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

Date: 01/31/2004 (384353) Classification: Moderate
 Self Report? YES
 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: 02/28/2004 Classification: Moderate
 Self Report? YES
 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: 03/31/2004 (384354) Classification: Moderate
 Self Report? YES
 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: 05/31/2004 (384356) Classification: Moderate
 Self Report? YES
 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: 01/31/2002 (184705) Classification: Moderate
 Self Report? YES
 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: 08/31/2004 (384359) Classification: Moderate
 Self Report? YES
 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: 12/31/2004 Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2002 (184709) Classification: Moderate
 Self Report? YES
 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: 05/31/2000 (184712) Classification: Moderate
 Self Report? YES
 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: 01/31/2003 (356571) Classification: Moderate
 Self Report? YES
 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: 05/31/2002 (184713) Classification: Moderate
 Self Report? YES
 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: 02/28/2003 (356572)
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: 06/30/2000 (184714)
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: 03/31/2003 (356573)
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: 06/30/2002 (184715)
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 (356574)
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: 07/31/2000 (184716)
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: 05/31/2003 (356575)
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: 08/31/2000 (184718)
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 (356576)
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: 07/31/2003 (356577)
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: 10/31/2002 (184722)
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: 08/31/2003 (356578)
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: 11/30/2002 (184724)
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: 11/30/2003 (356581)
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: 12/31/2000 (184725)
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: 12/31/2003 (356582)

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
(184727)

Date: 12/31/2002

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 LOTT;
RN103119046

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-0838-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Lott (the "City" or "Lott") under the authority of TEX. WATER CODE chs. 7 and 26 and 30 TEX. ADMIN. CODE chs. 70 and 305. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, appear before the Commission and together stipulate that:

1. The City owns and operates a domestic wastewater treatment system located on Avenue G between Bone Branch and The Southern Pacific Railroad, Lott, Falls County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the TCEQ rules.
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 enforcement on or about April 25, 2005.
 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 ten thousand three hundred fifty dollars (\$10,350.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid ten thousand three hundred fifty dollars (\$10,350.00) of the administrative 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.
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II. ALLEGATIONS

Lott is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010017001, Reporting and Monitoring Requirements Nos. 1 and 3, by failing to provide monitoring results at the intervals specified in the permit, as documented on March 23, 2005. Specifically, the Discharge Monitoring Reports (“DMR”) for February, September, October, November and December 2004 were not submitted as required. Additionally, Lott failed to report pH maximum on the July 2004 DMR, as documented on March 23, 2005.
2. TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010017001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, by failing to comply with permitted effluent limits during January, February, March, May, August and December 2004, as documented on March 23, 2005.

III. DENIALS

Lott generally denies each allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: City of Lott, Docket No. 2005-0838-MWD-E” to:

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

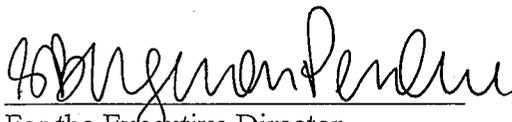
2. The provisions of this Agreed Order shall apply to and be binding upon Lott. Lott is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If Lott fails to comply with any of the Ordering Provisions 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, Lott's failure to comply is not a violation of this Agreed Order. Lott shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Lott shall notify the Executive Director within seven days after Lott becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. 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 Lott shall be made in writing to the Executive Director. Extensions are not effective until Lott receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Lott 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. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Lott, or three days after the date on which the Commission mails notice of the Order to Lott,

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

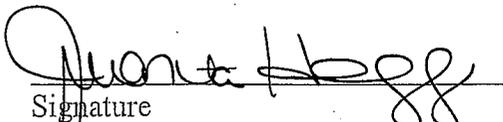
11/28/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 Lott's failure to comply with the Ordering Provisions, if any, in this order and/or Lott's failure to timely pay the penalty amount, may result in:

- A negative impact on Lott's compliance history;
- Greater scrutiny of any permit applications submitted by Lott;
- 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 Lott;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Lott; and
- TCEQ seeking other relief as authorized by law.

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


Signature

6/4/07
Date

Juanita Hogg
Name (Printed or typed)
Authorized representative of
City of Lott

Mayer
Title