EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1579-MWD-E **TCEQ ID:** RN102671153 **CASE NO.:** 34709

RESPONDENT NAME: Lakeshore Utility Company

ORDER TYPE:		
X 1660 AGREED ORDER	__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: Lakeshore Utility Point Lavista WWTP, located approximately 0.5 mile west of the intersection of State Highway 90 and Farm-to-Market Road 3054, Henderson County

TYPE OF OPERATION: Domestic wastewater treatment operation

SMALL BUSINESS: X 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 March 10, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Elvia Maske, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0789; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Alan P. Whatley, President, Lakeshore Utility Company, 106 East Corsicana Street, Athens, Texas 75751

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:** July 25, 2007 **Date of NOE Relating to this Case:** August 30, 2007 (NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failure to maintain authorization for the disposal of wastewater. Specifically, the Respondent did not submit a permit renewal application for TCEQ Permit No. 11502001 prior to the expiration date of December 1, 2006 and is continuing to dispose of wastewater by land application without authorization [30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2) and TEX. WATER CODE § 26.121(a)]. 2) Failure to comply with the 30-day average limit of 20.0 milligrams per liter limit for the five-day biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TCEQ Permit No. 11502001, Effluent Limitations, Section IV.A., and TEX. WATER CODE § 26.121(a)].	**Total Assessed:** $12,240 **Total Deferred:** $2,448 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $816 (remaining $8,976 is due in 11 monthly payments of $816 each) **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** X **Average** __ **Poor** **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the Respondent, on August 21, 2007, submitted a new permit application to the TCEQ, which was declared administratively complete on October 12, 2007. **Ordering Provisions:** 2) The Order will require the Respondent to: a) Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TCEQ Permit No. 11502001; 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 request or by any other deadline specified in writing; c) Within 300 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 2.d.; and d) Written certification of compliance shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and shall be notarized by a State of Texas Notary Public.

Additional ID No(s).: WQ0011502001

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision September 19, 2007*

TCEQ

DATES					
Assigned	4-Sep-2007				
PCW	5-Oct-2007	Screening	27-Sep-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Lakeshore Utility Company		
Reg. Ent. Ref. No.	RN102671153		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34709	No. of Violations	2
Docket No.	2007-1579-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
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* **$12,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 2% Enhancement — *Subtotals 2, 3, & 7* **$240**

Notes: The Respondent has one NOV for other 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.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$3,224
Approx. Cost of Compliance	$26,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$12,240**

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0% — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$12,240**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$12,240**

DEFERRAL — 20% Reduction — *Adjustment* **-$2,448**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$9,792**

Screening Date 27-Sep-2007 **Docket No.** 2007-1579-MWD-E **PCW**

Respondent Lakeshore Utility Company

Policy Revision 2 (September 2002)

Case ID No. 34709

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102671153

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

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	1	2%
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) 2%

>> 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 one NOV for other violations.

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

Screening Date 27-Sep-2007 **Docket No.** 2007-1579-MWD-E **PCW**

Respondent Lakeshore Utility Company *Policy Revision 2 (September 2002)*

Case ID No. 34709 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102671153

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.65 and 305.125(2) and Tex. Water Code § 26.121(a)

Violation Description Failed to maintain authorization for the disposal of wastewater. Specifically, the Respondent did not submit a permit renewal application for TCEQ Permit No. 11502001 prior to the expiration date of December 1, 2006 and is continuing to dispose of wastewater by land application without authorization.

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 10%

Matrix Notes: 100% of the rule requirement was not met by not renewing the permit.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 10 — 300 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

Ten monthly events are recommended from the permit expiration date of December 1, 2006 to the screening date of September 27, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,111

Statutory Limit Test

Violation Final Penalty Total $10,200

This violation Final Assessed Penalty (adjusted for limits) $10,200

Economic Benefit Worksheet

Respondent Lakeshore Utility Company
Case ID No. 34709
Reg. Ent. Reference No. RN102671153
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	$10,000	1-Dec-2006	19-Feb-2009	2.2	$1,111	n/a	$1,111
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Reported costs for preparing and submitting a new permit application to obtain authorization to dispose of wastewater. Date required is the permit expiration date. Final date is the projected 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 $10,000

TOTAL $1,111

Screening Date 27-Sep-2007 **Docket No.** 2007-1579-MWD-E **PCW**

Respondent Lakeshore Utility Company *Policy Revision 2 (September 2002)*

Case ID No. 34709 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102671153

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), TCEQ Permit No. 11502001, Effluent Limitations, Section IV.A., and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with the 30-day average limit of 20.0 milligrams per liter for the five-day biochemical oxygen demand. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to comply with the permit limits for land disposal of wastewater resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 2 | 153 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $2,113

Statutory Limit Test

Violation Final Penalty Total $2,040

This violation Final Assessed Penalty (adjusted for limits) $2,040

Economic Benefit Worksheet

Respondent Lakeshore Utility Company
Case ID No. 34709
Reg. Ent. Reference No. RN102671153
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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				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)	$16,000	1-Jul-2006	19-Feb-2009	2.6	$2,113	n/a	$2,113
Notes for DELAYED costs	Estimated costs of additional operating, maintenance, and monitoring to ensure compliance with permit effluent limitations based on $500 per month. Date required is the first violation month. Final date is the projected 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: $16,000

TOTAL: $2,113

Respondent: Lakeshore Utility Company
ID Number: RN102671153
Docket Number: 2007-1579-MWD-E
Enf. Coordinator: Catherine Albrecht

Corresponds to Violation 2:

EFFLUENT LIMITS PRIOR TO LAND APPLICATION

Month/Year	BOD5 30-Day Average Limit of 20.0 (in mg/L)
Jul-06	> 36.1
Aug-06	> 46.1
Sep-06	53.6
Oct-06	35.1
Nov-06	34.6

Abbreviations: Five-day Biochemical Oxygen Demand ("BOD5")
Milligrams per liter ("mg/L")
Greater than (">")

Compliance History

Customer/Respondent/Owner-Operator:	CN601356306	Lakeshore Utility Company	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN102671153	LAKESHORE UTILITY POINT LAVISTA WWTP	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):		UTILITIES WASTEWATER	REGISTRATION PERMIT	10843 WQ0011502001
Location:	Approximately 0.5 mile west of the intersection of State Highway 90 and Farm-to-Market Road 3054 in Henderson County		Rating Date: 9/1/2007	Repeat Violator: NO

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: September 25, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 25, 2002 to September 25, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

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 06/23/2006 (481170)
2 08/04/2006 (490123)
3 08/25/2007 (573192)

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

Date: 06/23/2006 (481170)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.4
Description: Failure to properly monitor the facility's pH as required.

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**
LAKESHORE UTILITY COMPANY	§	
RN102671153	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1579-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 Lakeshore Utility Company ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment operation located approximately 0.5 mile west of the intersection of State Highway 90 and Farm-to-Market Road 3054 in Henderson County, Texas (the "Facility").

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twelve Thousand Two Hundred Forty Dollars ($12,240) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Eight Hundred Sixteen Dollars ($816) of the administrative penalty and Two Thousand Four Hundred Forty-Eight Dollars ($2,448) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the penalty payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eight Thousand Nine Hundred Seventy-Six Dollars ($8,976) of the administrative penalty shall be payable in 11 monthly payments of Eight Hundred Sixteen Dollars ($816) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Respondent 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. The Executive Director recognizes that the Respondent, on August 21, 2007, submitted a new permit application to the TCEQ, which was declared administratively complete on October 12, 2007.

11. 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.

12. 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 Respondent is alleged to have:

1. Failed to maintain authorization for the disposal of wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2) and TEX. WATER CODE § 26.121(a), as documented during an

investigation conducted on July 25, 2007. Specifically, the Respondent did not submit a permit renewal application for TCEQ Permit No. 11502001 prior to the expiration date of December 1, 2006 and is continuing to dispose of wastewater by land application without authorization.

2. Failed to comply with the 30-day average limit of 20.0 milligrams per liter ("mg/L") limit for the five-day biochemical oxygen demand ("BOD5"), as listed in the table below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TCEQ Permit No. 11502001, Effluent Limitations, Section IV.A., and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on July 25, 2007:

Month/Year	BOD5 30-Day Average Limit of 20.0 mg/L
Jul-06	> 36.1 mg/L
Aug-06	> 46.1 mg/L
Sep-06	53.6 mg/L
Oct-06	35.1 mg/L
Nov-06	34.6 mg/L

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Lakeshore Utility Company, Docket No. 2007-1579-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 Respondent shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TCEQ Permit No. 11502001;

   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 request or by any other deadline specified in writing;

c. Within 300 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, as described in Ordering Provision No. 2.d.; and

d. Written certification of compliance shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 Respondent 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 Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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 Sadler
For the Executive Director

3/7/2008
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.

A. D. Whatley
Signature

12-14-07
Date

Alan D. Whatley
Name (Printed or typed)
Authorized Representative of
Lakeshore Utility Company

President
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.