EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1624-MWD-E **TCEQ ID:** RN101916880 **CASE NO.:** 34772

RESPONDENT NAME: City of Graham

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: City of Graham, located at 429 4th Street, approximately 6,000 feet south of the State Highway 67 bridge over Salt Creek in Graham, Young County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ___ Yes _X_ 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 April 28, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: The Honorable Wayne Christian, Mayor, City of Graham, P.O. Box 1449, Graham, Texas 76450

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 ___ Routine ___ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Record Review Relating to this Case:** August 30, 2007 **Date of NOE Relating to this Case:** September 21, 2007 (NOE) **Background Facts:** This was a routine record review. **WATER** Failure to comply with the permit effluent limits for total suspended solids, total ammonia nitrogen, flow, and carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10487001, Final Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].	**Total Assessed:** $3,600 **Total Deferred:** $720 X Expedited Settlement ___Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,880 **Site Compliance History Classification** ___ **High** X **Average** ___ **Poor** **Person Compliance History Classification** ___ **High** X **Average** ___ **Poor** **Major Source:** X Yes ___ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to submit written certification of compliance with the effluent limits of TPDES Permit No. 10487001 within 30 days after the effective date of this Agreed Order.

Additional ID No(s).: WQ0010487001

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	1-Oct-2007				
PCW	28-Nov-2007	Screening	11-Oct-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Graham		
Reg. Ent. Ref. No.	RN101916880		
Facility/Site Region	3-Abilene	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34772	No. of Violations	1
Docket No.	2007-1624-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$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 — **44%** Enhancement — *Subtotals 2, 3, & 7* **$1,100**

Notes: An enhancement is recommended because the Respondent had eight self-reported effluent violations for the same or similar violations within the last five years and received two NOVs for violations that were not for same or similar 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	$100
Approx. Cost of Compliance	$2,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$3,600**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$3,600**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$3,600**

DEFERRAL — **20%** Reduction — *Adjustment* **-$720**

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 **$2,880**

Screening Date 11-Oct-2007 **Docket No.** 2007-1624-MWD-E **PCW**

Respondent City of Graham

Case ID No. 34772

Reg. Ent. Reference No. RN101916880

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

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*)	8	40%
	Other written NOVs	2	4%
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) 44%

>> **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

An enhancement is recommended because the Respondent had eight self-reported effluent violations for the same or similar violations within the last five years and received two NOVs for violations that were not for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 44%

Screening Date 11-Oct-2007 **Docket No.** 2007-1624-MWD-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

Respondent City of Graham

Case ID No. 34772

Reg. Ent. Reference No. RN101916880

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10487001, Final Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with the permit effluent limits as indicated in the attached effluent violations table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate Carbonaceous Biochemical Oxygen Demand and Ammonia Nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total Flow and Total Suspended Solids were also considered. 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.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $58

Statutory Limit Test

Violation Final Penalty Total $3,600

This violation Final Assessed Penalty (adjusted for limits) $3,600

Economic Benefit Worksheet

Respondent City of Graham
Case ID No. 34772
Reg. Ent. Reference No. RN101916880
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	1-May-2007	30-Jun-2008	1.2	$58	n/a	$58

Notes for DELAYED costs: The estimated cost of additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required is the day the noncompliance began. The Final Date is the estimated 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 $1,000 **TOTAL** $58

City of Graham
Docket No. 2007-1624-MWD-E
RN101916880
TPDES Permit No. 10487001
Effluent Violations Table

Month/Year	Total Suspended Solids, Daily Max 40 mg/L	Total Ammonia Nitrogen, Daily Average 35 lbs/day	Total Ammonia Nitrogen, Daily Average 2 mg/L	Total Ammonia Nitrogen Daily Max 10 mg/L	Total Flow through Plant, 2 hour peak, 3025 GPM	Carbonaceous Biochemical Oxygen Demand Daily Average 7 mg/L
May, 2007	C	85.67	9.56	17	C	C
June, 2007	41.6	114.774	10.107	17	3452.09	8.21

mg/L = milligrams per liter lbs/day = pounds per day GPM = gallons per minute C = compliant

Compliance History

Customer/Respondent/Owner-Operator:	CN600338479	City of Graham	Classification: Average	Rating: 2.66
Regulated Entity:	RN101916880	CITY OF GRAHAM	Classification: Average	Rating: 0.61

ID Number(s):	WASTEWATER	PERMIT	WQ0010487001
	WASTEWATER	PERMIT	TX0024635000
	WASTEWATER	PERMIT	TX0024635
	WASTEWATER LICENSING	LICENSE	WQ0010487001

Location: LOCATED AT 429 4TH STREET APPX 6000 FEET SOUTH OF THE STATE HIGHWAY 67 BRIDGE OVER SALT CREEK IN GRAHAM, YOUNG COUNTY, TEXAS

Rating Date: 9/1/2007 Repeat Violator: N

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: October 09, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 09, 2002 to October 09, 2007

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

Name: Harvey Wilson Phone: 239-0321

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	10/15/2002	(170522)
2	11/15/2002	(16709)
3	11/22/2002	(170526)
4	12/23/2002	(170530)
5	01/21/2003	(170534)
6	02/21/2003	(170493)
7	03/21/2003	(170496)
8	04/14/2003	(170501)
9	05/22/2003	(170505)
10	06/20/2003	(170509)
11	07/16/2003	(170513)
12	08/19/2003	(300598)
13	09/19/2003	(300600)
14	11/21/2003	(300602)
15	11/21/2003	(300603)
16	12/16/2003	(300604)
17	01/26/2004	(300606)
18	02/22/2004	(300587)
19	03/23/2004	(300590)
20	03/24/2004	(300591)
21	03/29/2004	(267083)
22	05/20/2004	(300593)

23 06/22/2004 (300595)
24 07/09/2004 (280627)
25 07/22/2004 (354162)
26 08/24/2004 (354163)
27 09/24/2004 (354164)
28 10/22/2004 (354165)
29 11/23/2004 (354166)
30 12/21/2004 (383011)
31 01/27/2005 (383012)
32 02/22/2005 (383009)
33 03/16/2005 (383010)
34 04/20/2005 (430172)
35 05/18/2005 (430173)
36 06/23/2005 (430174)
37 07/18/2005 (430175)
38 08/24/2005 (441815)
39 09/19/2005 (441816)
40 10/17/2005 (470423)
41 11/14/2005 (470424)
42 12/22/2005 (470425)
43 01/18/2006 (470426)
44 01/20/2006 (440120)
45 02/14/2006 (470421)
46 03/21/2006 (499481)
47 04/10/2006 (470422)
48 05/15/2006 (499482)
49 06/20/2006 (499483)
50 07/17/2006 (499484)
51 08/10/2006 (487610)
52 08/21/2006 (521548)
53 09/18/2006 (521549)
54 09/27/2006 (530985)
55 10/16/2006 (546112)
56 10/31/2006 (514843)
57 11/27/2006 (546113)
58 12/19/2006 (546114)
59 01/18/2007 (546115)
60 02/12/2007 (578117)
61 03/22/2007 (578118)
62 04/16/2007 (578119)
63 05/17/2007 (578120)
64 06/21/2007 (578121)
65 08/09/2007 (578122)
66 09/24/2007 (574294)

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

Date: 02/28/2003 (170496)
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: 03/26/2004 (267083)
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010487-001
Description: Failure to accurately calibrate, by a trained person, all automatic flow measuring and recording devices required by the permit.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010487-001

Description: Failure to properly report effluent monitoring results in accordance with §30 TAC 319.4 - 319.12.
Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 317 317.3(c)(2)
Description: Failure to maintain an expected peak flow pumping capacity at the Pecan Street Lift Station.
Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 317 317.3(e)(5)
Description: Failure to have the Pecan Street Lift Station alarm system telemetered to a facility where 24 hour attendance is available.

Date: 08/31/2005 (441816)
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 (470426)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (499484)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006 (521549)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/27/2006 (530985)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/30/2006 (546114)
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: 05/31/2007 (578121)
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: 06/30/2007 (578122)
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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF GRAHAM	§	
RN101916880	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1624-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 the City of Graham ("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 wastewater treatment facility located at 429 4th Street, approximately 6,000 feet south of the State Highway 67 bridge over Salt Creek in Graham, Young County, Texas (the "Facility").

2. The City has discharged sewage 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 September 26, 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 Six Hundred Dollars ($3,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Eight Hundred Eighty Dollars ($2,880) of the administrative

penalty and Seven Hundred Twenty Dollars ($720) 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 permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10487001 Final Effluent Limitations and Monitoring, Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on August 30, 2007, and as indicated in the table below:

Month/Year	Total Suspended Solids, Daily Max 40 mg/L	Total Ammonia Nitrogen, Daily Average 35 lbs/day	Total Ammonia Nitrogen, Daily Average 2 mg/L	Total Ammonia Nitrogen Daily Max 10 mg/L	Total Flow through Plant, 2 hour peak, 3025 GPM	Carbonaceous Biochemical Oxygen Demand Daily Average 7 mg/L
May, 2007	C	85.67	9.56	17	C	C
June, 2007	41.6	114.774	10.107	17	3452.09	8.21

mg/L = milligrams per liter lbs/day = pounds per day GPM = gallons per minute C = compliant

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 Graham, Docket No. 2007-1624-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 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10487001. The certification 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
   Abilene Regional Office
   Texas Commission on Environmental Quality
   1977 Industrial Boulevard
   Abilene, Texas 79602-7833

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

_____ 4/6/2008
For the Executive Director 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.

_____ 1/16/08
Signature Date

Wayne Christian - Mayor _____
Name (Printed or typed) Title
Authorized Representative of
City of Graham

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.