

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0839-IWD-E **TCEQ ID:** RN101206803 **CASE NO.:** 35930
RESPONDENT NAME: LAMBERTI USA, INCORPORATED

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Lamberti USA Wharton Chemical Complex, located approximately 2,400 feet southwest of the San Bernard River and the United States Highway 59 bridge, and approximately 3.5 miles northeast of Hungerford, Wharton County</p> <p>TYPE OF OPERATION: Wastewater treatment system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 8, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Rudolpho Pino, Jr., President, LAMBERTI USA, INCORPORATED, P.O. Box 1000, Hungerford, Texas 77448 Mr. Gabriele Greco, Operations Manager, LAMBERTI USA, INCORPORATED, P.O. Box 1000, Hungerford, Texas 77448 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|---|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 27, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 5, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for total suspended solids, oil and grease, fecal coliform, and carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002469000, Effluent Limitations and Monitoring Requirements No. 1, Outfall 001].</p> <p>2) Failure to timely submit monitoring results at the intervals specified in the permit. Specifically, discharge monitoring reports ("DMRs") for the monitoring periods ending on August 31, 2007, November 30, 2007, and January 31, 2008, were not submitted by the 20th day of the month following the monitoring periods [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002469000, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failure to provide a National Institute of Standards and Technology ("NIST") certified traceable thermometer in the outfall 001 composite sampler refrigerator. Specifically, the thermometer in the 001 composite sampler refrigerator was not NIST traceable [30 TEX. ADMIN. CODE § 319.11(b)].</p> <p>4) Failure to accurately report the number</p> | <p>Total Assessed: \$80,507</p> <p>Total Deferred: \$16,101 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$64,406</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 Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On April 29, 2008, installed a NIST certified traceable thermometer in the Outfall 001 composite sampler refrigerator;</p> <p>b. On May 20, 2008, submitted revised DMRs, including updated FOA and NOEX data;</p> <p>c. On May 20, 2008, submitted documentation that staff was trained on proper procedures for timely and accurate reporting of DMRs;</p> <p>d. On May 20, 2008, installed three backflow prevention devices on the potable water line;</p> <p>e. On May 30, 2008, repaired wall between the clarifier and aeration basin in Plant No. 1; and</p> <p>f. By June 16, 2008, installed and began operation of an on-site domestic sewage facility.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, remove and properly dispose of excess solids from the Plant No. 1 clarifier and begin proper solids management;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision a.;</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002469000, including specific corrective actions that were implemented at the Facility to achieve</p> |

| | | |
|--|--|--|
| <p>of effluent excursions ("NOEX") and the frequency of analysis ("FOA") on the monthly DMRs. Specifically, the Respondent was including the daily average exceedance in the NOEXs reported on the DMRs, instead of the total of sample measurements that exceeded the maximum, minimum, and/or 7-day average. In addition, the reported FOA on the DMRs did not accurately reflect the frequency of the samples that were analyzed [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0002469000, Monitoring and Reporting Requirements No. 1].</p> <p>5) Failure to properly operate and maintain all facilities and systems of treatment and control to achieve compliance with the permit conditions. Specifically, the Plant No.1 clarifier was discharging a large amount of solids into the weir trough, and the wall separating the clarifier from the aeration basin was observed to be severely corroded with pieces of the wall flaking and broken off [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0002469000, Operational Requirements No. 1].</p> <p>6) Failure to provide a backflow prevention device or air gap on the potable water line into the Facility. Specifically, at the time of the investigation, a backflow prevention device or air gap was not installed on the potable water line [30 TEX. ADMIN. CODE § 317.4(a)(8)].</p> | | <p>compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and</p> <p>d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and c.</p> |
|--|--|--|

Additional ID No(s): WQ0002469000, TX0086363



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

| | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|
| DATES | Assigned | 13-May-2008 | | | |
| | PCW | 21-May-2008 | Screening | 21-May-2008 | EPA Due |

| | |
|--|----------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | LAMBERTI USA, INCORPORATED |
| Reg. Ent. Ref. No. | RN101206803 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | |
|-------------------------|-------------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 35930 | No. of Violations | 7 |
| Docket No. | 2008-0839-IWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Andrew Hunt |
| 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 | \$37,100 |
|---|-------------------|-----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|--------------------|--------------------------------|-----------------|
| Compliance History | 152.0% Enhancement | Subtotals 2, 3, & 7 | \$56,392 |
|---------------------------|--------------------|--------------------------------|-----------------|

Notes: An enhancement is recommended due to one NOV with unrelated violations and 30 self-reported monthly effluent violations.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | | |
|------------------------------------|----------------|-------------------|------------|
| Good Faith Effort to Comply | 0.0% 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.

| | | | | |
|-----------------------------------|-----------------|-----------------------------------|-------------------|------------|
| Total EB Amounts | \$8,707 | 0.0% Enhancement* | Subtotal 6 | \$0 |
| Approx. Cost of Compliance | \$70,569 | *Capped at the Total EB \$ Amount | | |

| | | |
|-----------------------------|-----------------------|-----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$93,492 |
|-----------------------------|-----------------------|-----------------|

| | | | |
|---|--------|-------------------|------------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | -13.9% | Adjustment | -\$12,985 |
|---|--------|-------------------|------------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent the self-reported violations from overly impacting the penalty.

| | |
|-----------------------------|-----------------|
| Final Penalty Amount | \$80,507 |
|-----------------------------|-----------------|

| | | |
|-----------------------------------|-------------------------------|-----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$80,507 |
|-----------------------------------|-------------------------------|-----------------|

| | | | | |
|-----------------|-------|-----------|-------------------|------------------|
| DEFERRAL | 20.0% | Reduction | Adjustment | -\$16,101 |
|-----------------|-------|-----------|-------------------|------------------|

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

Notes: Deferral offered for expedited settlement.

| | |
|------------------------|-----------------|
| PAYABLE PENALTY | \$64,406 |
|------------------------|-----------------|

Screening Date 21-May-2008

Docket No. 2008-0839-IWD-E

PCW

Respondent LAMBERTI USA, INCORPORATED

Policy Revision 2 (September 2002)

Case ID No. 35930

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101206803

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria) | 30 | 150% |
| | Other written NOV's | 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 judgments 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) 152%

>> 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 due to one NOV with unrelated violations and 30 self-reported monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 152%

Screening Date 21-May-2008 **Docket No.** 2008-0839-IWD-E **PCW**
Respondent LAMBERTI USA, INCORPORATED *Policy Revision 2 (September 2002)*
Case ID No. 35930 *PCW Revision April 29, 2008*
Reg. Ent. Reference No. RN101206803
Media [Statute] Water Quality
Enf. Coordinator Andrew Hunt

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002469000, Effluent Limitations and Monitoring Requirements No. 1, Outfall 001

Violation Description Failed to comply with the permitted effluent limitations, as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | X | | 25% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes

Based upon the stream segment classification in the 2008 Texas Quality Inventory and 303(d) List as impaired for bacteria, the proximity of the discharges to the impaired waterway, and the chronic duration of non-compliance for total fecal coliform, human health or the environment has been exposed to significant amounts of pollutants as a result of these discharges. Also, total suspended solids, carbonaceous biochemical oxygen demand, and oil and grease were considered.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 10 Number of violation days 304

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | monthly | X |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$25,000

Ten monthly events are recommended for monitoring periods ending on March 31, 2007 through June 30, 2007, August 31, 2007 through December 31, 2007, and February 29, 2008.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$7,270

Violation Final Penalty Total \$54,250

This violation Final Assessed Penalty (adjusted for limits) \$54,250

Economic Benefit Worksheet

Respondent LAMBERTI USA, INCORPORATED
Case ID No. 35930
Reg. Ent. Reference No. RN101206803
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 | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | \$54,000 | 1-Mar-2007 | 31-Jan-2009 | 1.92 | \$346 | \$6,924 | \$7,270 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Actual cost to construct an on-site domestic sewage facility to remove domestic waste. Date Required is the first date of non-compliance. Final Date is the date of anticipated compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$54,000

TOTAL

\$7,270

| | | |
|--|--|---|
| Screening Date 21-May-2008 | Docket No. 2008-0839-IWD-E | PCW |
| Respondent LAMBERTI USA, INCORPORATED | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 35930 | | <i>PCW Revision April 29, 2008</i> |
| Reg. Ent. Reference No. RN101206803 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Andrew Hunt | | |
| Violation Number | 2 | |
| Rule Cite(s) | Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002469000, Effluent Limitations and Monitoring Requirements No. 1, Outfall 001 | |
| Violation Description | Failed to comply with the permitted effluent limitations, as shown in the attached violation table. | |
| Base Penalty | | \$10,000 |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|----|------------------|--------------|-----------------|--------------------|--------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | | | | x |
| | Potential | | | | |
| | | | | Percent 10% | |

>> Programmatic Matrix

| | | | | | |
|--|----------------------|--------------|-----------------|--------------|-------------------|
| | Falsification | Major | Moderate | Minor | |
| | | | | | Percent 0% |

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. In addition, total fecal coliform, total suspended solids, and oil and grease were 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 protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

| | | | | |
|--------------------------------|---------------------|---|--|---------------------------------------|
| | daily | | | |
| | monthly | | | |
| <i>mark only one with an x</i> | quarterly | x | | |
| | semiannual | | | |
| | annual | | | |
| | single event | | | Violation Base Penalty \$2,000 |

Two quarterly events are recommended for the monitoring periods ending on July 31, 2007 and January 31, 2008.

| | |
|---|---|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$1,112"/> | Violation Final Penalty Total <input type="text" value="\$4,340"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,340"/> | |

Economic Benefit Worksheet

Respondent: LAMBERTI USA, INCORPORATED
Case ID No.: 35930
Reg. Ent. Reference No.: RN101206803
Media: 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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|----------|------------|-------------|------|------|---------|---------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$10,000 | 1-Jul-2007 | 31-Jan-2009 | 1.59 | \$53 | \$1,059 | \$1,112 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to evaluate causes of effluent excursions and to rehabilitate the system. The date required is first date of non-compliance. The final date is expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,112

Screening Date 21-May-2008 **Docket No.** 2008-0839-IWD-E **PCW**
Respondent LAMBERTI USA, INCORPORATED *Policy Revision 2 (September 2002)*
Case ID No. 35930 *PCW Revision April 29, 2008*
Reg. Ent. Reference No. RN101206803
Media [Statute] Water Quality
Enf. Coordinator Andrew Hunt

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0002469000, Monitoring and Reporting Requirements No. 1

Violation Description
 Failed to timely submit monitoring results at the intervals specified in the permit, as documented in an investigation conducted on February 27, 2008. Specifically, the discharge monitoring reports ("DMRs") for the monitoring periods ending on August 31, 2007, November 30, 2007, and January 31, 2008 were not submitted by the 20th day of the month following the monitoring periods.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | X | 1% |

Matrix Notes
At least 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 3 244 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$300

Three single events are recommended based upon the three late DMRs (August 2007, November 2007, and January 2008).

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$12 **Violation Final Penalty Total** \$651

This violation Final Assessed Penalty (adjusted for limits) \$651

Economic Benefit Worksheet

Respondent: LAMBERTI USA, INCORPORATED
Case ID No.: 35930
Reg. Ent. Reference No.: RN101206803
Media: Water Quality
Violation No.: 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$75 | 20-Sep-2007 | 20-May-2008 | 0.67 | \$0 | \$3 | \$3 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | \$250 | 20-Sep-2007 | 20-May-2008 | 0.67 | \$8 | n/a | \$8 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs to submit late DMRs and to update guidance and conduct employee training. The date required is the date the first report was due. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$325

TOTAL

\$12

Screening Date 21-May-2008 **Docket No.** 2008-0839-IWD-E **PCW**
Respondent LAMBERTI USA, INCORPORATED *Policy Revision 2 (September 2002)*
Case ID No. 35930 *PCW Revision April 29, 2008*
Reg. Ent. Reference No. RN101206803
Media [Statute] Water Quality
Enf. Coordinator Andrew Hunt

Violation Number

Rule Cite(s)

Violation Description Failed to provide a National Institute of Standards and Technology ("NIST") certified traceable thermometer in the outfall 001 composite sampler refrigerator, as documented in an investigation on February 27, 2008. Specifically, the thermometer in the 001 composite sampler refrigerator was not NIST traceable.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|----------------------|----------------------|-------------------------------------|---------------------------------|
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="5%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | |

>> Programmatic Matrix

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

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|-------------------------------------|
| daily | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input type="text"/> |
| semianual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input checked="" type="checkbox"/> |

Violation Base Penalty

One single event is recommended based upon documentation of the violation during the February 27, 2008 investigation.

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 LAMBERTI USA, INCORPORATED
Case ID No. 35930
Reg. Ent. Reference No. RN101206803
Media Water Quality
Violation No. 4

| | |
|-------------------------|------------------------------|
| 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 | \$226 | 27-Feb-2008 | 29-Apr-2008 | 0.17 | \$0 | \$3 | \$3 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs of a NIST certified traceable thermometer. The date required is the date of investigation. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$226

TOTAL

\$3

Screening Date 21-May-2008 **Docket No.** 2008-0839-IWD-E **PCW**
Respondent LAMBERTI USA, INCORPORATED *Policy Revision 2 (September 2002)*
Case ID No. 35930 *PCW Revision April 29, 2008*

Reg. Ent. Reference No. RN101206803

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0002469000, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to accurately report the number of effluent excursions ("NOEXs") and the frequency of analysis ("FOA") on the monthly discharge monitoring reports, as documented during an investigation conducted on February 27, 2008. Specifically, the Respondent was including the daily average exceedance in the NOEXs reported on the DMRs, instead of the total of sample measurements that exceeded the maximum, minimum, and/or 7-day average. In addition, the reported FOA on the DMRs did not accurately reflect the frequency of the samples that were analyzed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 0% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | X | 1% |

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$1,300

Thirteen single events are recommended based upon thirteen self-reported DMRs.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$11

Violation Final Penalty Total \$2,821

This violation Final Assessed Penalty (adjusted for limits) \$2,821

Economic Benefit Worksheet

Respondent LAMBERTI USA, INCORPORATED
Case ID No. 35930
Reg. Ent. Reference No. RN101206803
Media Water Quality
Violation No. 5

| | |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$500 | 27-Feb-2008 | 20-May-2008 | 0.23 | \$0 | \$8 | \$8 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | \$250 | 27-Feb-2008 | 20-May-2008 | 0.23 | \$3 | n/a | \$3 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated labor costs to re-submit correct DMRs and update operational guidance and training. The date required is the investigation date. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$11

| | | |
|--|--|---------------------------------------|
| Screening Date 21-May-2008 | Docket No. 2008-0839-IWD-E | PCW |
| Respondent LAMBERTI USA, INCORPORATED | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 35930 | <i>PCW Revision April 29, 2008</i> | |
| Reg. Ent. Reference No. RN101206803 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Andrew Hunt | | |
| Violation Number <input type="text" value="6"/> | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0002469000, Operational Requirements No. 1 | |
| Violation Description | Failed to properly operate and maintain all facilities and systems of treatment and control to achieve compliance with the permit conditions, as documented in an investigation conducted on February 27, 2008. Specifically, the Plant No.1 clarifier was discharging a large amount of solids into the weir trough, and the wall separating the clarifier from the aeration basin was observed to be severely corroded with pieces of the wall flaking and broken off. | |
| Base Penalty | | <input type="text" value="\$10,000"/> |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|------------------|----------------------|----------------------|-------------------------------------|--|----------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | | <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | Percent <input type="text" value="5%"/> | |

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

| | | |
|---|--|--------------------------|
| Number of Violation Events <input type="text" value="1"/> | <input type="text" value="84"/> | Number of violation days |
| mark only one with an x daily <input type="text"/> monthly <input type="text"/> quarterly <input type="text"/> semiannual <input type="text"/> annual <input type="text"/> single event <input checked="" type="checkbox"/> | Violation Base Penalty <input type="text" value="\$500"/> | |

| | |
|---|---|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$295"/> | Violation Final Penalty Total <input type="text" value="\$1,085"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,085"/> | |

Economic Benefit Worksheet

Respondent: LAMBERTI USA, INCORPORATED
Case ID No.: 35930
Reg. Ent. Reference No.: RN101206803
Media: Water Quality
Violation No.: 6

| 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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$5,000 | 27-Feb-2008 | 31-Dec-2008 | 0.84 | \$14 | \$281 | \$295 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs to remove excess solids and make repairs to the clarifier wall on Plant. No. 1. The date required is the date of investigation. The final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$295

| | | |
|--|---|------------|
| Screening Date 21-May-2008 | Docket No. 2008-0839-IWD-E | PCW |
| Respondent LAMBERTI USA, INCORPORATED | <i>Policy Revision 2 (September 2002)</i> | |
| Case ID No. 35930 | <i>PCW Revision April 29, 2008</i> | |
| Reg. Ent. Reference No. RN101206803 | | |
| Media [Statute] Water Quality | | |
| Enf. Coordinator Andrew Hunt | | |
| Violation Number | 7 | |
| Rule Cite(s) | 30 Tex. Admin. Code § 317.4(a)(8) | |
| Violation Description | Failed to provide a backflow prevention device or air gap on the potable water line into the Facility, as documented during an investigation conducted on February 27, 2008. Specifically, at the time of the investigation, a backflow prevention device or air gap was not installed on the potable water line. | |
| Base Penalty | | \$10,000 |

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| | | | | | |
|---------------------|--|--------------------------|--------------------------|---------|--------------------------|
| | Falsification | | | | |
| | | Major | Moderate | | Minor |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> |
| Matrix Notes | Human health or the environment will or could be exposed to a significant amount of pollutants which may exceed levels that are protective of human health or environmental receptors as a result of this violation. | | | | |
| Adjustment | | | | \$7,500 | |

Adjustment

Violation Events

| | | | | |
|--|--|--|---------------------------------|--------------------------|
| | <input type="text" value="3"/> | | <input type="text" value="83"/> | Number of violation days |
| <i>mark only one with an x</i> | daily <input type="checkbox"/> monthly <input checked="" type="checkbox"/> quarterly <input type="checkbox"/> semiannual <input type="checkbox"/> annual <input type="checkbox"/> single event <input type="checkbox"/> | Violation Base Penalty <input type="text" value="\$7,500"/> | | |
| Three monthly events are recommended based upon the date of investigation on February 27, 2008 to the date of screening on May 21, 2008. | | | | |

| | |
|--|--|
| Economic Benefit (EB) for this violation | Statutory Limit Test |
| Estimated EB Amount <input type="text" value="\$4"/> | Violation Final Penalty Total <input type="text" value="\$16,275"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$16,275"/> | |

Economic Benefit Worksheet

Respondent: LAMBERTI USA, INCORPORATED
Case ID No.: 35930
Reg. Ent. Reference No.: RN101206803
Media: Water Quality
Violation No.: 7

| | |
|------------------|-----------------------|
| 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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment | \$268 | 27-Feb-2008 | 20-May-2008 | 0.23 | \$0 | \$4 | \$4 |
| Buildings | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Land | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | 0.00 | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Actual costs to install three backflow prevention devices on the potable water line. The date required is the date of investigation. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$268

TOTAL

\$4

EFFLUENT VIOLATION TABLE
LAMBERTI USA, INCORPORATED
 TPDES Permit No. 02469
 Docket No. 2008-0839-IWD-E

| Months | TSS Daily max. loading | Oil and Grease Daily ave. conc. | Oil and Grease Daily max. conc. | Fecal Coliform Daily ave. conc. | Fecal Coliform Daily max. conc. | Fecal Coliform Single grab conc. | CBOD Daily max. loading |
|--------------------|------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|----------------------------------|-------------------------|
| | Limit = 11.8 lbs/day | Limit = 15 mg/L | Limit = 20 mg/L | Limit = 200 cols./100 mg/L | Limit = 400 cols./100 mg/L | Limit = 400 cols./100 mg/L | Limit = 11.8 lbs/day |
| Outfall 001 | | | | | | | |
| 3/31/2007 | c | c | c | 644 | 3,200 | c | c |
| 4/30/2007 | c | c | c | 2,096 | 5,000 | c | c |
| 5/31/2007 | c | c | c | 1,140 | 3,600 | c | 27.02 |
| 6/30/2007 | c | c | c | 448 | 1,200 | c | c |
| 7/31/2007 | 17.54 | c | c | c | 1,600 | c | 11.91 |
| 8/31/2007 | 13.28 | c | c | 2,743 | 5,600 | c | c |
| 9/30/2007 | c | c | c | 1,223 | 1,600 | c | c |
| 10/31/2007 | c | c | c | 578 | 1,600 | c | c |
| 11/30/2007 | c | c | c | 433.7 | 800 | c | c |
| 12/31/2007 | c | c | c | 377 | 800 | c | c |
| 1/31/2008 | c | 109.8 | 181 | c | c | c | c |
| 2/27/2008* | c | c | 31 | c | c | 450 | c |
| 2/29/2008 | c | 20.7 | 28.8 | 1,374.1 | 3,400 | c | c |

* grab samples conducted during an investigation on February 27, 2008

conc. = concentration

c = compliant

CBOD = carbonaceous biochemical oxygen demand

lbs/day = pounds per day

cols. = colonies

max. = maximum

mg/L = milligrams per Liter

ave. = average

TSS = total suspended solids

Compliance History

| | | | | |
|-------------------------------------|--|--|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN600650709 | LAMBERTI USA, INCORPORATED | Classification: AVERAGE | Rating: 1.20 |
| Regulated Entity: | RN101206803 | LAMBERTI USA WHARTON CHEMICAL COMPLEX | Classification: AVERAGE | Site Rating: 1.20 |
| ID Number(s): | WASTEWATER | PERMIT | | WQ0002469000 |
| | WASTEWATER | PERMIT | | TPDES0086363 |
| | WASTEWATER | PERMIT | | TX0086363 |
| | AIR NEW SOURCE PERMITS | PERMIT | | 13807 |
| | AIR NEW SOURCE PERMITS | PERMIT | | 45463 |
| | AIR NEW SOURCE PERMITS | PERMIT | | 48583 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | | WF0043K |
| | AIR NEW SOURCE PERMITS | PERMIT | | 54505 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 75488 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 75455 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 70918 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 71262 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 71363 |
| | AIR NEW SOURCE PERMITS | PERMIT | | 50742 |
| | AIR NEW SOURCE PERMITS | PERMIT | | 56665 |
| | AIR NEW SOURCE PERMITS | PERMIT | | 54508 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 78586 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 78598 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | | 81635 |
| | AIR NEW SOURCE PERMITS | AFS NUM | | 4848100024 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | | 32309 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | | TXD000839035 |

Location: Located approx. 2,400 feet southwest of the San Bernard River/US Highway 59 bridge, and approx. 3.5 miles northeast of Hungerford, Wharton County, Texas
 Rating Date: September 01 07
 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: May 28, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 28, 2003 to May 28, 2008

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

Name: Andrew Hunt Phone: 512-239-1203

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? | <u>N/A</u> |
| 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 | 07/07/2003 | (316979) |
| 2 | 08/08/2003 | (316980) |
| 3 | 09/08/2003 | (316982) |
| 4 | 10/07/2003 | (316984) |
| 5 | 11/07/2003 | (316981) |
| 6 | 11/07/2003 | (316985) |
| 7 | 12/17/2003 | (316986) |
| 8 | 01/08/2004 | (316987) |
| 9 | 02/06/2004 | (316977) |
| 10 | 03/02/2004 | (316978) |
| 11 | 05/13/2004 | (361145) |
| 12 | 06/04/2004 | (361146) |
| 13 | 08/13/2004 | (285351) |
| 14 | 09/17/2004 | (361147) |
| 15 | 10/07/2004 | (361148) |
| 16 | 12/10/2004 | (387002) |
| 17 | 01/05/2005 | (387003) |
| 18 | 02/16/2005 | (424783) |
| 19 | 03/23/2005 | (387000) |
| 20 | 03/23/2005 | (387001) |
| 21 | 04/22/2005 | (424784) |
| 22 | 05/19/2005 | (424785) |
| 23 | 06/17/2005 | (424786) |
| 24 | 07/01/2005 | (393351) |
| 25 | 07/15/2005 | (445452) |
| 26 | 07/15/2005 | (445455) |
| 27 | 09/09/2005 | (445453) |
| 28 | 09/09/2005 | (445454) |
| 29 | 10/11/2005 | (476947) |
| 30 | 11/14/2005 | (476948) |
| 31 | 11/15/2005 | (436596) |
| 32 | 12/08/2005 | (476949) |
| 33 | 01/13/2006 | (476950) |
| 34 | 02/14/2006 | (476945) |
| 35 | 03/09/2006 | (476946) |
| 36 | 04/14/2006 | (503745) |
| 37 | 05/10/2006 | (503746) |
| 38 | 06/12/2006 | (503747) |
| 39 | 08/10/2006 | (526098) |
| 40 | 09/25/2006 | (526099) |
| 41 | 10/12/2006 | (550451) |
| 42 | 11/10/2006 | (550452) |
| 43 | 12/14/2006 | (550453) |
| 44 | 01/11/2007 | (586634) |
| 45 | 02/22/2007 | (586628) |
| 46 | 03/19/2007 | (586629) |
| 47 | 04/13/2007 | (586630) |
| 48 | 05/22/2007 | (586631) |
| 49 | 05/31/2007 | (586632) |
| 50 | 07/23/2007 | (586633) |
| 51 | 10/12/2007 | (604751) |
| 52 | 10/12/2007 | (604752) |
| 53 | 10/12/2007 | (604753) |
| 54 | 11/21/2007 | (624552) |
| 55 | 12/21/2007 | (624553) |
| 56 | 01/21/2008 | (624551) |
| 57 | 01/21/2008 | (624554) |
| 58 | 03/06/2008 | (675406) |
| 59 | 03/20/2008 | (675407) |
| 60 | 04/22/2008 | (675408) |
| 61 | 05/05/2008 | (653591) |

| | | | |
|--------------|--|----------------|----------|
| | TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 07/31/2006 (445453) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 08/31/2006 (526099) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 10/31/2006 (550452) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 11/30/2006 (550453) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 01/31/2007 (586628) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 02/28/2007 (586629) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 03/31/2007 (586630) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 04/30/2007 (586631) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 05/31/2007 (586632) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 06/30/2007 (586633) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 07/31/2007 (604751) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 08/31/2007 (604752) | | |
| Self Report? | YES | Classification | Moderate |

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

| | | | | |
|--------------|--|----------|----------------|----------|
| Date: | 06/30/2003 | (316979) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 09/30/2003 | (316984) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 07/31/2004 | (316981) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 10/31/2004 | (361148) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 06/29/2005 | (393351) | | |
| Self Report? | NO | | Classification | Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) | | | |
| Description: | Failure to properly maintain the digester. | | | |
| Date: | 07/31/2005 | (387001) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 09/30/2005 | (476947) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 10/31/2005 | (476948) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 03/31/2006 | (503745) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 04/30/2006 | (503746) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 05/31/2006 | (503747) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date: | 06/30/2006 | (526098) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | | |

| | | | |
|--------------|--|----------------|----------|
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 09/30/2007 (604753) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 10/31/2007 (624552) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 11/30/2007 (624553) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 12/31/2007 (624554) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 01/31/2008 (675406) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 02/29/2008 (675407) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 03/31/2008 (675408) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| 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
LAMBERTI USA, INCORPORATED
RN101206803

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0839-IWD-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 LAMBERTI USA, INCORPORATED ("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 wastewater treatment system located approximately 2,400 feet southwest of the San Bernard River and the United States Highway 59 bridge, and approximately 3.5 miles northeast of Hungerford, in Wharton County, Texas (the "Facility").
2. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
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 May 10, 2008.
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 Eighty Thousand Five Hundred Seven Dollars (\$80,507) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Sixty-Four Thousand Four Hundred Six Dollars

(\$64,406) of the administrative penalty and Sixteen Thousand One Hundred One Dollars (\$16,101) 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, the Executive Director may require the Respondent 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 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On April 29, 2008, installed a National Institute of Standards and Technology ("NIST") certified traceable thermometer in the Outfall 001 composite sampler refrigerator;
 - b. On May 20, 2008, submitted revised discharge monitoring reports ("DMRs"), including updated frequency of analysis ("FOA") and number of effluent excursions ("NOEX") data;
 - c. On May 20, 2008, submitted documentation that staff was trained on proper procedures for timely and accurate reporting of DMRs;
 - d. On May 20, 2008, installed three backflow prevention devices on the potable water line;
 - e. On May 30, 2008, repaired wall between the clarifier and aeration basin in Plant No.1; and
 - f. By June 16, 2008, installed and began operation of an on-site domestic sewage facility.
10. 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.
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:

- Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0002469000, Effluent Limitations and Monitoring Requirements No. 1, Outfall 001, as documented during an investigation conducted on February 27, 2008, and as shown in the following violation table.

| EFFLUENT VIOLATION TABLE | | | | | | | |
|--------------------------|------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|----------------------------------|-------------------------|
| Months | TSS Daily max. loading | Oil and Grease Daily ave. conc. | Oil and Grease Daily max. conc. | Fecal Coliform Daily ave. conc. | Fecal Coliform Daily max. conc. | Fecal Coliform Single grab conc. | CBOD Daily max. loading |
| | Limit = 11.8 lbs/day | Limit = 15 mg/L | Limit = 20 mg/L | Limit = 200 cols./100 mg/L | Limit = 400 cols./100 mg/L | Limit = 400 cols./100 mg/L | Limit = 11.8 lbs/day |
| Outfall 001 | | | | | | | |
| 3/31/2007 | c | c | c | 644 | 3,200 | c | c |
| 4/30/2007 | c | c | c | 2,096 | 5,000 | c | c |
| 5/31/2007 | c | c | c | 1,140 | 3,600 | c | 27.02 |
| 6/30/2007 | c | c | c | 448 | 1,200 | c | c |
| 7/31/2007 | 17.54 | c | c | c | 1,600 | c | 11.91 |
| 8/31/2007 | 13.28 | c | c | 2,743 | 5,600 | c | c |
| 9/30/2007 | c | c | c | 1,223 | 1,600 | c | c |
| 10/31/2007 | c | c | c | 578 | 1,600 | c | c |
| 11/30/2007 | c | c | c | 433.7 | 800 | c | c |
| 12/31/2007 | c | c | c | 377 | 800 | c | c |
| 1/31/2008 | c | 109.8 | 181 | c | c | c | c |
| 2/27/2008* | c | c | 31 | c | c | 450 | c |
| 2/29/2008 | c | 20.7 | 28.8 | 1,374.1 | 3,400 | c | c |

* grab samples conducted during an investigation on February 27, 2008

conc. = concentration

c = compliant

CBOD = carbonaceous biochemical oxygen demand

lbs/day = pounds per day

cols. = colonies

max. = maximum

mg/L = milligrams per Liter

ave. = average

TSS = total suspended solids

2. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0002469000, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on February 27, 2008. Specifically, DMRs for the monitoring periods ending on August 31, 2007, November 30, 2007, and January 31, 2008 were not submitted by the 20th day of the month following the monitoring periods.
3. Failed to provide a NIST certified traceable thermometer in the outfall 001 composite sampler refrigerator, in violation of 30 TEX. ADMIN. CODE § 319.11(b), as documented during an investigation conducted on February 27, 2008. Specifically, the thermometer in the 001 composite sampler refrigerator was not NIST traceable.
4. Failed to accurately report the NOEX and the FOA on the monthly DMRs, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0002469000, Monitoring and Reporting Requirements No. 1, as documented during an investigation conducted on February 27, 2008. Specifically, the Respondent was including the daily average exceedance in the NOEXs reported on the DMRs, instead of the total of sample measurements that exceeded the maximum, minimum, and/or 7-day average. In addition, the reported FOA on the DMRs did not accurately reflect the frequency of the samples that were analyzed.
5. Failed to properly operate and maintain all facilities and systems of treatment and control to achieve compliance with the permit conditions, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0002469000, Operational Requirements No. 1, as documented during an investigation conducted on February 27, 2008. Specifically, the Plant No.1 clarifier was discharging a large amount of solids into the weir trough, and the wall separating the clarifier from the aeration basin was observed to be severely corroded with pieces of the wall flaking and broken off.
6. Failed to provide a backflow prevention device or air gap on the potable water line into the Facility, in violation of 30 TEX. ADMIN. CODE § 317.4(a)(8), as documented during an investigation conducted on February 27, 2008. Specifically, at the time of the investigation, a backflow prevention device or air gap was not installed on the potable water line.

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: LAMBERTI USA, INCORPORATED, Docket No. 2008-0839-IWD-E" to:

...the ... of ...

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. Within 30 days after the effective date of this Agreed Order, remove and properly dispose of excess solids from the Plant No. 1 clarifier and begin proper solids management, as required by TPDES Permit WQ0002469000, Operational Requirements No. 1;
 - b. Within 45 days after the effective date of this Agreed Order, submit certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.d. below;
 - c. Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0002469000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and
 - d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.c. 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the 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.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial statements and for providing a clear audit trail. The records should be kept up-to-date and should be accessible to all relevant parties.

2. The second part of the document outlines the procedures for handling cash and other assets. It is important to ensure that all cash receipts are properly recorded and that all disbursements are supported by valid documentation. Regular reconciliations should be performed to ensure that the books are in balance.

3. The third part of the document describes the process for recording and reporting on investments. It is important to keep track of the cost basis of all investments and to report any gains or losses in a timely manner. This information is crucial for determining the correct amount of income tax to be paid.

4. The fourth part of the document discusses the treatment of depreciation and amortization. These expenses are used to allocate the cost of long-lived assets over their useful lives. It is important to use the correct method and to keep accurate records of the accumulated depreciation and amortization for each asset.

5. The fifth part of the document covers the treatment of interest and dividends. Interest income is generally taxable, while interest expense is deductible. Dividends are also taxable, but they may be eligible for a reduced rate of tax. It is important to keep accurate records of all interest and dividend income and expenses.

6. The sixth part of the document discusses the treatment of capital gains and losses. Capital gains are taxable, but they may be eligible for a reduced rate of tax. Capital losses can be used to offset capital gains, and they can also be used to offset other types of income. It is important to keep accurate records of all capital gains and losses.

7. The seventh part of the document covers the treatment of retirement and pension plans. Contributions to these plans are generally deductible, and the earnings on the plans are tax-deferred. It is important to keep accurate records of all contributions and earnings, and to report them correctly on the tax return.

8. The eighth part of the document discusses the treatment of charitable contributions. Charitable contributions are deductible, and they can provide a significant tax benefit. It is important to keep accurate records of all charitable contributions, and to obtain proper documentation from the recipient.

9. The ninth part of the document covers the treatment of state and local taxes. State and local taxes are generally deductible, and they can provide a significant tax benefit. It is important to keep accurate records of all state and local taxes paid, and to report them correctly on the tax return.

10. The tenth part of the document discusses the treatment of miscellaneous deductions. These deductions include items such as travel expenses, entertainment expenses, and gifts. It is important to keep accurate records of all miscellaneous deductions, and to report them correctly on the tax return.

LAMBERTI USA, INCORPORATED
DOCKET NO. 2008-0839-IWD-E
Page 7

To: Mrs. Mercedes Hupp

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Salter

For the Executive Director

11/24/2008

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.

Gabriele Greco

Signature

September 3rd 2008

Date

GABRIELE GRECO
Name (Printed or typed)
Authorized Representative of
LAMBERTI USA, INCORPORATED

OPERATIONS MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

