

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0625-MLM-E **TCEQ ID:** RN101198174 and RN101920163 **CASE NO.:** 37518

RESPONDENT NAME: City of Robert Lee

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Robert Lee Water System (Facility 1), 6 East 7th Street, Robert Lee, Coke County and WWTP (Facility 2), located at 101 West First Street on the east bank of the Colorado River, approximately 2,500 feet southwest of the Coke County Court House, Robert Lee, Coke County</p> <p>TYPE OF OPERATION: Public water supply and wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 5, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Joe V. White, Mayor, City of Robert Lee, P.O. Box 26, Robert Lee, Texas 76945 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 11 and March 30, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 2, 2009 (NOE)</p> <p>Background Facts: These were record reviews.</p> <p>WATER</p> <p>1) Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM"), based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to comply with the permitted effluent limitations for carbonaceous biochemical oxygen demand, ammonia nitrogen, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination system ("TPDES") Permit No. WQ0013901001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$11,174</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$11,174</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>RN101198174 (Facility 1) Site Compliance History Classification <input type="checkbox"/> High <input 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>RN101920163 (Facility 2) 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>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facilities:</p> <p>a. During April 2008, constructed a temporary clarifier system and removed sludge from the permanent clarifier at Facility 2;</p> <p>b. During September 2008, installed a new sludge/scum rake system in the clarifier, replaced all weirs and piping associated with the clarifier, and all piping associated with the sludge recirculation and aeration basin at Facility 2;</p> <p>c. On October 13, 2008, made electrical repairs to the cylindroid on the automatic control valve at Facility 1; and</p> <p>d. During February 2009, returned to compliance with the permitted effluent limitations of TPDES Permit No. WQ0013901001.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.</p>

Additional ID No(s): PWS ID No. 0410002

Attachment A
Docket Number: 2009-0625-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Robert Lee

Payable Penalty Amount: Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174)

SEP Amount: Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up

Location of SEP: Coke County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	6-Apr-2009			
	PCW	24-Apr-2009	Screening	24-Apr-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Robert Lee
Reg. Ent. Ref. No.	RN101198174
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37518	No. of Violations	1
Docket No.	2009-0625-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
Admin. Penalty \$ Limit Minimum	\$50	EC's Team	Enforcement Team 1
Maximum	\$1,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	77.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$192
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Notes: Enhancement due to nine NOVs with same or similar violations, six unrelated NOVs, and one previous Administrative Order containing a denial of liability.

Culpability	Yes	25.0% Enhancement	<i>Subtotal 4</i>	\$62
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Notes: The Respondent was issued an alert letter for total trihalomethane ("TTHM") exceedances on November 19, 2008.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$1,770
 Approx. Cost of Compliance \$20,595
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$504
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<i>Final Penalty Amount</i>	\$504
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$504
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DEFERRAL	0.0%	Reduction	<i>Adjustment</i>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral due to culpability.

PAYABLE PENALTY	\$504
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Screening Date 24-Apr-2009	Docket No. 2009-0625-MLM-E	PCW
Respondent City of Robert Lee		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37518		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN101198174		
Media [Statute] Public Water Supply		
Enf. Coordinator Jennifer Graves		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	9	45%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 77%

>> Repeat Violator (Subtotal 3)

N/A	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	Enhancement due to nine NOVs with same or similar violations, six unrelated NOVs, and one previous Administrative Order containing a denial of liability.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 77%

Screening Date 24-Apr-2009	Docket No. 2009-0625-MLM-E	PCW		
Respondent City of Robert Lee		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37518		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101198174				
Media [Statute] Public Water Supply				
Enf. Coordinator Jennifer Graves				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)			
Violation Description	Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentrations for TTHM were 0.120 mg/L for the fourth quarter of 2008 and 0.154 mg/L for the first quarter of 2009.			
	Base Penalty	<input type="text" value="\$1,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Exceeding the MCL for TTHM exposes customers of the water supply to significant amounts of contaminants that do not exceed levels that are protective of human health.			
	Adjustment	<input type="text" value="\$750"/>		
		<input type="text" value="\$250"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="151"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input checked="" type="checkbox"/>		
	single event	<input type="text"/>		
		Violation Base Penalty	<input type="text" value="\$250"/>	
One annual event is recommended.				
Good Faith Efforts to Comply				
	0.0% Reduction	<input type="text" value="\$0"/>		
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="checkbox"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	<input type="text" value="\$250"/>		
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount	<input type="text" value="\$1,770"/>	Violation Final Penalty Total	<input type="text" value="\$505"/>	
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$505"/>	

Economic Benefit Worksheet

Respondent: City of Robert Lee
Case ID No.: 37518
Reg. Ent. Reference No.: RN101198174
Media: Public Water Supply
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
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No commas or \$

Delayed Costs

Equipment	\$20,000	24-Nov-2008	28-Feb-2010	1.26	\$84	\$1,684	\$1,768
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$595	1-Oct-2008	13-Oct-2008	0.03	\$0	\$1	\$1
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 replace filter media and to add additional granular activated carbon. Actual cost to make electrical repairs to the cylindroid on the automatic control valve. Date required is the initial quarter of non-compliance. Final date is the expected date of compliance (February 28, 2010) and the date the cylindroid was repaired (October 13, 2008).

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

\$20,595

TOTAL

\$1,770

Compliance History Report

Customer/Respondent/Owner-Operator: CN600643407 CITY OF ROBERT LEE Classification: AVERAGE Rating: 8.61
Regulated Entity: RN101198174 CITY OF ROBERT LEE WATER SYSTEM Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0410002
WATER LICENSING LICENSE 0410002

Location: 6 E 7TH ST, ROBERT LEE, COKE CO,
TX

TCEQ Region: REGION 08 - SAN ANGELO

Date Compliance History Prepared: April 08, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 08, 2004 to April 08, 2009

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

Name: Jennifer Graves Phone: 956-430-6023

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 02/20/2006 ADMINORDER 2005-0625-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for HAA5 in the 1st, 2nd and 3rd Quarters of 2004.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for HAA5 in the 4th Quarter of 2004.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for TTHM in the 2nd Quarter of 2005

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.031(c)

Description: Violated the MCL for TTHM in the 3rd Quarter of 2005

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for TTHM in the 4th Quarter of 2004

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	05/14/2004	(271815)
2	03/02/2005	(350500)
3	03/07/2005	(350694)
4	04/18/2005	(377418)
5	09/27/2005	(432778)
6	11/07/2005	(419060)
7	01/04/2006	(451087)
8	05/08/2006	(464944)
9	07/20/2006	(739419)
10	11/10/2006	(739979)
11	01/30/2007	(739985)
12	02/23/2007	(541032)
13	03/23/2007	(554744)
14	05/18/2007	(739990)
15	07/02/2007	(645149)
16	08/01/2007	(645383)
17	08/10/2007	(739995)
18	08/15/2007	(645552)
19	11/15/2007	(739998)
20	02/08/2008	(740002)
21	03/25/2008	(543478)
22	07/30/2008	(740013)
23	10/10/2008	(704423)
24	01/13/2009	(723365)
25	01/16/2009	(740015)
26	02/11/2009	(726543)
27	04/02/2009	(740208)

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

Date: 11/07/2005 (419060) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(1)(B)
TWC Chapter 26 26.121(a)
Description: Failure to prevent an unauthorized discharge of wastes.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)
Description: Failure to provide a marked, restricted zone of 200 feet radius from the raw water intakes at Spence Reservoir and Mountain Creek Lake.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)
Description: Failure to control a leak of caustic.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide a fence that meets the definition of an intruder resistant fence for a ground storage tank.

Date: 07/20/2006 (739419) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2006.

Date: 11/10/2006 (739979) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006.

Date: 01/30/2007 (739985) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2006.

Date: 02/23/2007 (541032) CN600643407
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
Description: Failure to maintain a liquid level indicator.

Date: 05/18/2007 (739990) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2007.

Date: 07/02/2007 (645149) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(2)
Description: BACT - NONACUTE MCL (5% OR >1)

Date: 08/01/2007 (645383) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)
Description: PUBLIC NOTICE

Date: 08/10/2007 (739995) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2007.

Date: 08/15/2007 (645552) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 11/15/2007 (739998) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.

Date: 02/08/2008 (740002) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Date: 07/30/2008 (740013) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Date: 10/10/2008 (704423) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)
Description: Failure to provide secondary containment for liquid chemical storage tanks.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain an up-to-date map of the distribution.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)
Description: Failure to calibrate the 2100N benchtop turbidimeter at least once every 90 days.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to update the Monitoring Plan.

Self Report? NO Classification: Major
Citation: TWC Chapter 26 26.121
Description: Failure to prevent a discharge of caustic soda (sodium hydroxide).

Date: 01/16/2009 (740015) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2008.

- 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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	6-Apr-2009	Screening	24-Apr-2009	EPA Due	
	PCW	24-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Robert Lee
Reg. Ent. Ref. No.	RN101920163
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37518	No. of Violations	2
Docket No.	2009-0625-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		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* **\$5,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **122.0%** Enhancement *Subtotals 2, 3, & 7* **\$6,710**

Notes Enhancement due to 20 monthly self-reported effluent violations, four NOV's with same or similar violations, and one NOV with unrelated violations.

Culpability **No** **0.0%** Enhancement *Subtotal 4* **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$1,375**

Economic Benefit **0.0%** Enhancement* *Subtotal 6* **\$0**

Total EB Amounts **\$11,334**
 Approx. Cost of Compliance **\$150,000**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$10,835**

OTHER FACTORS AS JUSTICE MAY REQUIRE **-1.5%** *Adjustment* **-\$165**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommend reduction to prevent double-enhancement for violations that were self-reported.

Final Penalty Amount **\$10,670**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$10,670**

DEFERRAL **0.0%** Reduction *Adjustment* **\$0**

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

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$10,670**

Screening Date	24-Apr-2009	Docket No.	2009-0625-MLM-E	PCW
Respondent	City of Robert Lee			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37518			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101920163			
Media [Statute]	Water Quality			
Enf. Coordinator	Jennifer Graves			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	24	120%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 122%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to 20 monthly self-reported effluent violations, four NOVs with same or similar violations, and one NOV with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 122%

Screening Date 24-Apr-2009	Docket No. 2009-0625-MLM-E	PCW	
Respondent City of Robert Lee		<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 37518		<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN101920163			
Media [Statute] Water Quality			
Enf. Coordinator Jennifer Graves			
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. WQ0013901001, Effluent Limitations and Monitoring Requirements No. 1.		
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review on February 11, 2009, and shown in the attached effluent table.		
	Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
	Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Percent 25%
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Percent 0%
Matrix Notes	A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. In addition, total suspended solids were considered. As a result of these discharges, human health or the environment has been exposed to significant 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	Number of violation days
		29	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	
	weekly	<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 \$2,500
One monthly event is recommended for the month of February 2008.			
Good Faith Efforts to Comply			\$625
	25.0% Reduction		
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	<small>(mark with x)</small>	
Notes	The Respondent achieved compliance by February 28, 2009.		
	Violation Subtotal		\$1,875
Economic Benefit (EB) for this violation			Statutory Limit Test
Estimated EB Amount	\$11,334	Violation Final Penalty Total	\$4,850
This violation Final Assessed Penalty (adjusted for limits)			\$4,850

Economic Benefit Worksheet

Respondent: City of Robert Lee
Case ID No.: 37518
Reg. Ent. Reference No.: RN101920163
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
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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)	\$150,000	31-Jan-2008	28-Feb-2009	1.08	\$540	\$10,795	\$11,334
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 for the Respondent to construct a temporary clarifier system, remove and transfer sludge, install a new sludge/scum rake system, replace all weirs and piping associated with the clarifier, and replace all piping associated with the sludge recirculation and aeration basin. Date required is the initial month of non-compliance. 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	\$150,000	TOTAL	\$11,334
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Screening Date	24-Apr-2009	Docket No.	2009-0625-MLM-E	PCW
Respondent	City of Robert Lee			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37518			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101920163			
Media [Statute]	Water Quality			
Enf. Coordinator	Jennifer Graves			
Violation Number	2			
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0013901001, Effluent Limitations and Monitoring Requirements No. 1.			
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review on February 11, 2009, and shown in the attached effluent 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 and ammonia nitrogen to determine whether the discharged amount of pollutants exceeded levels protective of human health and the environment. In addition, total suspended solids 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 that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events	3	91	Number of violation days
<i>mark only one with an x</i>	daily		Violation Base Penalty \$3,000
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Three quarterly events are recommended for the quarters containing the months of January, September, October and November of 2008.

Good Faith Efforts to Comply 25.0% Reduction \$750

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)
Notes	The Respondent achieved compliance by February 28, 2009.	

Violation Subtotal \$2,250

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$5,820

This violation Final Assessed Penalty (adjusted for limits) \$5,820

Economic Benefit Worksheet

Respondent City of Robert Lee
Case ID No. 37518
Reg. Ent. Reference No. RN101920163
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
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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				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

See Economic Benefit Worksheet for Violation No. 1.

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

\$0

TOTAL

\$0

EFFLUENT VIOLATION TABLE

City of Robert Lee

TPDES Permit No. WQ0013901001

Docket No. 2009-0625-MLM-E

	CBOD₅ Daily Avg. Loading	CBOD₅ Daily Avg. Conc.	NH₃-N Daily Avg. Loading	NH₃-N Daily Avg. Conc.	NH₃-N Max. Single Grab	TSS Daily Avg. Conc.
Months	Limit = 10 lbs/day	Limit = 10 mg/L	Limit = 3 lbs/day	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 15 mg/L
1/31/2008	c	c	c	c	c	21.70
2/29/2008	12.36	18.00	5.84	8.64	c	16.75
9/30/2008	c	c	4.1	5.82	19.20	c
10/31/2008	c	c	c	c	c	26.00
11/30/2008	c	c	c	c	c	21.50
CBOD ₅ = carbonaceous biochemical oxygen demand				lbs/day = pounds per day		
TSS = total suspended solids				mg/L = milligrams per liter		
NH ₃ -N = ammonia nitrogen				c = compliant		
avg. = average				conc. = concentration		
Max. = maximum						

Compliance History Report

Customer/Respondent/Owner-Operator: CN600643407 City Of Robert Lee Classification: AVERAGE Rating: 8.61
Regulated Entity: RN101920163 CITY OF ROBERT LEE WWTP Classification: AVERAGE Site Rating: 1.60

ID Number(s): WASTEWATER PERMIT WQ0013901001
WASTEWATER PERMIT TPDES0022942
WASTEWATER PERMIT TX0022942

Location: LOCATED AT 101 W 1ST ST ON THE
E BANK OF THE COLORADO RIVER,
APPRX 2,500 F SW OF THE COKE CO
COURTHOUSE IN THE CITY OF ROBERT
LEE IN COKE CO, TX

TCEQ Region: REGION 08 - SAN ANGELO

Date Compliance History Prepared: April 08, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 08, 2004 to April 08, 2009

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

Name: Jennifer Graves Phone: 956-430-6023

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/16/2004	(275358)
2	07/15/2004	(353488)
3	07/15/2004	(353489)
4	07/15/2004	(353490)
5	07/15/2004	(353491)
6	07/15/2004	(353492)
7	07/15/2004	(353493)
8	07/15/2004	(353494)
9	07/15/2004	(353495)
10	07/15/2004	(353496)
11	07/15/2004	(353497)
12	07/15/2004	(353498)

13	07/15/2004	(353499)
14	07/15/2004	(353500)
15	07/15/2004	(353501)
16	07/15/2004	(353502)
17	07/15/2004	(353503)
18	07/15/2004	(353504)
19	07/15/2004	(353505)
20	07/15/2004	(353506)
21	07/15/2004	(353507)
22	07/15/2004	(353508)
23	07/15/2004	(353509)
24	07/15/2004	(353510)
25	07/15/2004	(353512)
26	07/15/2004	(353513)
27	07/15/2004	(353514)
28	07/15/2004	(353515)
29	07/15/2004	(353516)
30	07/15/2004	(353519)
31	07/15/2004	(353520)
32	07/15/2004	(353522)
33	07/15/2004	(353523)
34	07/15/2004	(353525)
35	07/15/2004	(353526)
36	07/15/2004	(353528)
37	07/15/2004	(353529)
38	07/15/2004	(353530)
39	07/22/2004	(353511)
40	08/26/2004	(353517)
41	08/26/2004	(353521)
42	08/26/2004	(353524)
43	08/26/2004	(353527)
44	11/17/2004	(353518)
45	11/24/2004	(382656)
46	01/20/2005	(382657)
47	02/07/2005	(382658)
48	02/14/2005	(382654)
49	03/21/2005	(382655)
50	04/27/2005	(420466)
51	05/09/2005	(420467)
52	07/31/2005	(441509)
53	07/31/2005	(441510)
54	09/16/2005	(441512)
55	09/19/2005	(441511)
56	11/14/2005	(469794)
57	12/09/2005	(436956)
58	09/15/2006	(512886)
59	10/12/2006	(515968)
60	10/26/2006	(620214)
61	10/26/2006	(620215)
62	10/26/2006	(620216)
63	10/26/2006	(620217)
64	10/26/2006	(620218)
65	10/26/2006	(620219)
66	10/26/2006	(620222)
67	10/26/2006	(620223)
68	10/26/2006	(620225)
69	11/29/2006	(515596)
70	06/07/2007	(563490)
71	06/21/2007	(565107)

72 06/21/2007 (620220)
 73 06/21/2007 (620221)
 74 11/13/2007 (601291)
 75 12/17/2007 (620224)
 76 01/07/2008 (620226)
 77 01/22/2008 (635948)
 78 02/11/2008 (672590)
 79 03/13/2008 (690550)
 80 04/14/2008 (690552)
 81 05/05/2008 (690554)
 82 06/06/2008 (690548)
 83 06/06/2008 (690549)
 84 06/06/2008 (690551)
 85 06/06/2008 (690553)
 86 06/06/2008 (690555)
 87 06/06/2008 (690556)
 88 06/06/2008 (690557)
 89 06/06/2008 (690558)
 90 06/06/2008 (690559)
 91 06/06/2008 (690560)
 92 06/06/2008 (690561)
 93 06/06/2008 (690562)
 94 06/06/2008 (690563)
 95 06/09/2008 (711408)
 96 07/03/2008 (711409)
 97 07/23/2008 (687038)
 98 08/07/2008 (711410)
 99 09/05/2008 (711411)
 100 10/20/2008 (711412)
 101 11/10/2008 (727960)
 102 11/14/2008 (704532)
 103 12/17/2008 (727961)
 104 04/03/2009 (726891)

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

Date: 04/30/2004 (353503) CN600643407
 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: 06/16/2004 (275358)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 30 TAC Chapter 317 317.7(i)
 Description: Failure to provide a reduced-pressure principle backflow prevention assembly (RPBA) on the main public water supply line at the wastewater treatment plant.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 PPVII.III.A PERMIT
 Description: Failure to properly manage sewage sludge so as to prevent a potential discharge to the environment.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 PPVII.III.G PERMIT
 Description: Failure to submit sludge reports to the Region Office by September 1.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.6(b)(3)
 Description: Failure to remove solids that have accumulated in the bottom of the chlorine contact chamber.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.6(b)(1)(E)
 Description: Failure to provide a proper vent and gas tight window for the chlorination equipment room at the wastewater treatment facility.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.1(a)(3)(D)
 Description: Failure to submit a summary transmittal letter and obtain authorization for plans to add additional sludge drying beds prior to construction.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 PPII.2 PERMIT
 Description: Failure to meet the permitted maximum limit for total chlorine residual in the final effluent.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)
 Description: Failure to provide a properly configured readily accessible sampling point by which effluent flow measurement accuracy may be checked.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 PPVIII.5.e PERMIT
 Description: Failure to properly maintain the equipment used to determine application rates of irrigated effluent and maintain accurate records.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 PPVIII.5.a PERMIT
 Description: Failure to submit soil sample results to the TCEQ Region Office during September of each year.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 317 317.6
 Description: Failure to maintain and construct an adequate structure for the housing of chlorination equipment and cylinders of chlorine used to rechlorinate treated effluent prior to irrigation.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.6(b)(1)(D)
 Description: Failure to have a self-contained breathing apparatus (SCBA) at a safe distance outside the entrance to the chlorine facility.

Date: 10/31/2004 (382656) CN600643407
 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: 11/30/2004 (382657) CN600643407
 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: 01/31/2005 (382654) CN600643407
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: 02/28/2005 (382655) CN600643407
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: 03/31/2005 (420466) CN600643407
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: 12/09/2005 (436956) CN600643407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)
Description: Failure to provide a properly configured readily accessible sampling point by which effluent flow measurement accuracy may be checked.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVII.III.F.1 PERMIT
Description: Failure to conduct and record results of Liquid Paint Filter tests.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
PPVII.III.G PERMIT
Description: Failure to compile and submit annual sludge report.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
PPVII.1 PERMIT
Description: Failure to properly operate the final clarifier to prevent the accumulation of excessive solids.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.6(b)(1)
Description: Failure to properly maintain the chlorine regulator.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPII.1 PERMIT
Description: Failure to meet the permit limitation for flow.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPII.1, 2, and 3 PERMIT
Description: Failure to meet the permit limitation for total suspended solids (TSS), total chlorine residual maximum, and pH maximum.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPIV.7.c PERMIT
Description: Failure to submit noncompliance notifications when effluent noncompliance are greater than 40 % above the effluent limitation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)
PPIV.3.b and c. PERMIT
Description: Failure to document the calibration of the dissolved oxygen meter in a log book.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVIII.7.a PERMIT
Description: Failure to submit the annual soil results to the Region Office by September 1.

Date: 12/31/2005 (620225) CN600643407
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: 01/31/2006 (620214) CN600643407
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: 10/31/2006 (690560) CN600643407
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: 11/29/2006 (515596) CN600643407
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(5)
Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
PPIV.1 PERMIT
Description: Failure to complete and submit Discharge Monitoring Report (DMR) forms for sludge production and use.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
PPVI.1 PERMIT
Description: Failure to properly operate the final clarifier to prevent the accumulation of excessive solids.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPII.2 PERMIT
Description: Failure to meet the permitted minimum limit for total chlorine residual in the final effluent.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPII.1 PERMIT
Description: Failure to meet the permit limitation for five-day carbonaceous biochemical oxygen demand (CBOD5), total suspended solids (TSS), and ammonia nitrogen (NH3-N).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVIII.7.e PERMIT
Description: Failure to maintain adequate records of effluent used for irrigation.

Date: 11/30/2006 (690562) CN600643407
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: 12/31/2006 (690563) CN600643407
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: 01/31/2007 (690548) CN600643407
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: 02/28/2007 (690549) CN600643407
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: 03/31/2007 (690551) CN600643407
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 (620224) CN600643407
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: 01/22/2008 (635948)
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

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

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

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

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		
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		
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		
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		
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		
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		
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		
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:	01/31/2008 (672590)	CN600643407	
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 (690550)	CN600643407	
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:	09/30/2008 (711412)	CN600643407	
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: 10/31/2008 (727960) CN600643407
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: 11/14/2008 (704532) CN600643407
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to have the backflow prevention device tested annually.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVII.III.D PERMIT
Description: Failure to test sludge for the required parameters.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(b)(4)
Description: Failure to provide a cover for the container where screenings are temporarily stored prior to final disposal.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)
Description: Failure to properly operate the final clarifier.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPII.2 PERMIT
Description: Failure to meet the required minimum total chlorine residual in the final effluent.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPII.1, PPIV.5 PERMIT
Description: Failure to properly monitor flow.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the permitted effluent limitation for one or more parameters.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
PPII.1 PERMIT
Description: Failure to monitor effluent at the required frequency.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPIV.7.c PERMIT
Description: Failure to submit noncompliance notification for effluent noncompliances that deviated from the permitted effluent limit by more than 40%.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPIV.5 PERMIT
Description: Failure to have the flow meter (totalizing meter) that is used to monitor the amount of effluent applied as irrigation water calibrated at least annually.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVIII.7.a PERMIT
Description: Failure to conduct an annual analysis of a representative soil sample taken from the root zone of the irrigated site.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVIII.7.j PERMIT

Description: Failure to re-chlorinate effluent prior to delivery to the irrigation system.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVIII.7.h PERMIT

Description: Failure to have signs at the effluent storage pond that state "DO NOT DRINK THE WATER" in English and Spanish in addition to the international symbol.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.7(e)

Description: Failure to completely fence the effluent storage pond.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVIII.7.d PERMIT

Description: Failure to furnish a certification by a Texas Licensed Professional Engineer that the effluent storage pond lining meets the appropriate design criteria.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPVIII.7.e. PERMIT

Description: Failure to maintain records of the volume of effluent applied as irrigation water.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
PPII.2 PERMIT

Description: Failure to meet the required maximum total chlorine residual in the effluent.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(a)(5)

Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures.

Date: 11/30/2008 (727961) CN600643407

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
CITY OF ROBERT LEE
RN101198174; RN101920163

§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0625-MLM-E

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 Robert Lee ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a public water supply located at 6 East 7th Street, in Robert Lee, Coke County, Texas ("Facility 1") that has approximately 649 retail service connections and 227 wholesale service connections and serves at least 25 people per day for at least 60 days per year.

2. The City owns and operates a wastewater treatment facility located at 101 West First Street on the east bank of the Colorado River, approximately 2,500 feet southwest of the Coke County Court House, in Robert Lee, Coke County, Texas ("Facility 2").
3. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
4. During a record review conducted on March 30, 2009, TCEQ staff documented that the City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") at Facility 1, based on a running annual average. Specifically, the running annual average concentrations for TTHM were 0.120 mg/L for the fourth quarter of 2008 and 0.154 mg/L for the first quarter of 2009.
5. During a record review conducted on February 11, 2009, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports ("DMR") for Facility 2:

EFFLUENT VIOLATION TABLE						
	CBOD ₅ Daily Avg. Loading	CBOD ₅ Daily Avg. Conc.	NH ₃ -N Daily Avg. Loading	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Max. Single Grab	TSS Daily Avg. Conc.
Months	Limit = 10 lbs/day	Limit = 10 mg/L	Limit = 3 lbs/day	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 15 mg/L
1/31/2008	c	c	c	c	c	21.70
2/29/2008	12.36	18	5.84	8.64	c	16.75
9/30/2008	c	c	4.1	5.82	19.20	c
10/31/2008	c	c	c	c	c	26.00
11/30/2008	c	c	c	c	c	21.50
CBOD ₅ = carbonaceous biochemical oxygen demand				lbs/day = pounds per day		
TSS = total suspended solids				mg/L = milligrams per liter		
NH ₃ -N = ammonia nitrogen				c = compliant		
avg. = average				conc. = concentration		
max. = maximum						

6. The City received notices of the violations on April 7, 2009.
7. The Executive Director recognizes that the City has implemented the following corrective measures at the Facilities:
 - a. During April 2008, constructed a temporary clarifier system and removed sludge from the permanent clarifier at Facility 2;
 - b. During September 2008, installed a new sludge/scum rake system in the clarifier, replaced all weirs and piping associated with the clarifier, and all piping associated with the sludge recirculation and aeration basin at Facility 2;

- c. On October 13, 2008, made electrical repairs to the cylindroid on the automatic control valve at Facility 1; and
- d. During February 2009, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013901001.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 4, the City failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 5, the City 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 TPDES Permit No. WQ0013901001, Effluent Limitations and Monitoring Requirements No. 1.
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b) and TEX. WATER CODE § 7.053. Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP")."

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Robert Lee, Docket No. 2009-0625-MLM-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5, Conclusions of Law, above, Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall undertake the following technical requirements at Facility 1:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 3.a. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certifications shall be submitted to:

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

A copy shall be submitted to:

DBP Compliance Coordinator
Water Supply Division/PDWS, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. 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.
5. 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.
6. 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.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Zoller
For the Executive Director

9/3/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Robert Lee. I am authorized to agree to the attached Agreed Order on behalf of the City of Robert Lee, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Robert Lee waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Joe V. White
Signature

7/22/09
Date

Joe V. White
Name (Printed or typed)
Authorized Representative of
City of Robert Lee

Mayor
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.

Attachment A
Docket Number: 2009-0625-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Robert Lee
Payable Penalty Amount: Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174)
SEP Amount: Eleven Thousand One Hundred Seventy-Four Dollars (\$11,174)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")-Abandoned Tire Clean-Up
Location of SEP: Coke County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to clean-up sites where tires have been disposed of illegally. Eligible sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. SEP monies will be used to pay for the direct cost of collecting and disposing of tires. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

