

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1599-MLM-E **TCEQ ID:** RN102186053 **CASE NO.:** 34951

RESPONDENT NAME: City of Kirbyville

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 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: City of Kirbyville Wastewater Treatment Plant, approximately 3/4 mile east of the intersection of United States Highway 96 and Main Street, Kirbyville, Jasper County</p> <p>TYPE OF OPERATION: 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 March 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Giles Horn, Mayor, City of Kirbyville, 107 South Elizabeth Avenue, Kirbyville, Texas 75956 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: June 20, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 18, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions [30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014384001, Operational Requirements No. 1].</p> <p>2) Failure to correctly report analytical data on discharge monitoring reports [30 TEX. ADMIN. CODE § 319.1 and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failure to comply with test procedures for analyses of pollutants [30 TEX. ADMIN. CODE § 319.11(a) and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 2].</p> <p>4) Failure to provide noncompliance notification to the TCEQ for unauthorized discharges [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 7.a.].</p> <p>5) Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4), and TPDES Permit No.</p>	<p>Total Assessed: \$29,470</p> <p>Total Deferred: \$29,470 <input type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty.</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>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 Facility:</p> <p>a. By July 9, 2007, corrected discharge monitoring reports were submitted to the TCEQ for the months of January, February, and March 2007, which noted the reported flows in million gallons per day;</p> <p>b. By August 28, 2007, the Respondent had purchased and began using potassium iodide for the manganese correction portion of the total chlorine residual analysis;</p> <p>c. By August 28, 2007, the Respondent purchased check valve assemblies and repaired the two lift pump check valves at the Weaver lift station;</p> <p>d. By October 1, 2007, the Respondent ceased washing out garbage trucks and contracted with a private sanitation company for city-wide waste disposal; and</p> <p>e. By November 6, 2006, the Respondent repaired the manholes/collection system, and cleaned and disinfected the affected areas.</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, update the standard operating procedures for the Facility and conduct employee training to ensure that all reporting requirements are properly accomplished;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.;</p> <p>c. Within 60 days after the effective date of this Agreed Order, repair or replace the effluent weir in Clarifier No. 1 and</p>

<p>WQ0014384001, Permit Conditions No. 2(g)].</p> <p>6) Failure to prevent the unauthorized discharge of wastewater generated from washing out garbage trucks at the Facility [30 TEX. ADMIN. CODE § 330.15].</p> <p>7) Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0014384001, Permit Conditions No. 2(g)].</p> <p>8) Failure to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0014384001, Operational Requirements No. 1].</p> <p>9) Failure to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0014384001, Operational Requirements No. 1].</p>		<p>remediate corrosion in Clarifier Nos. 1 and 2;</p> <p>d. Within 60 days after the effective date of this Agreed Order, repair and cease all discharges from the splitter box and chlorine contact chamber;</p> <p>e. Within 60 days after the effective date of this Agreed Order, provide an operable high water alarm and repair the three adjacent manholes nearest three gravity lines feeding the Weaver lift station;</p> <p>f. Within 60 days after the effective date of this Agreed Order, fill in and prevent further erosion beside the foundations of the old wet well and influent lift station;</p> <p>g. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision c. through f.;</p> <p>h. Within 90 days after the effective date of this Agreed Order, conduct an engineering evaluation of the Facility to assess the extent of infiltration and inflow ("I/I") of storm water into the collection system and the impacts of I/I on hydraulic loading and performance at the Facility. The evaluation shall be prepared by a licensed Texas professional engineer;</p>
		<p>i. Within 180 days after the effective date of this Agreed Order, complete a plan and schedule for the completion of necessary corrective actions to fully rehabilitate the Facility based on the engineering evaluation. This schedule should allow for completion of all repairs within 365 days after the effective date of this Agreed Order. The Respondent shall provide a copy of the plan and schedule;</p> <p>j. Within 365 days after the effective date of this Agreed Order, complete all necessary corrective actions to fully rehabilitate the Facility based on the engineering plan and schedule referenced in Ordering Provision i.; and</p> <p>k. Within 380 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision j.</p>

Additional ID No(s): WQ0014384001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	20-Aug-2007	Screening	17-Oct-2007	EPA Due	
	PCW	7-Dec-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Kirbyville
Reg. Ent. Ref. No.	RN102186053
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34951	No. of Violations	9	
Docket No.	2007-1599-MLM-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell	
Multi-Media	Municipal Solid Waste	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	\$17,800
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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	65% Enhancement	Subtotals 2, 3, & 7	\$11,570
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Notes: The Respondent self-reported nine months of effluent quality violations and was issued four written NOV's for same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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	\$3,389	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$75,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$29,370
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount	\$29,470
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$29,470
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DEFERRAL	0% Reduction	Adjustment	\$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 is recommended for Findings Orders.

PAYABLE PENALTY	\$29,470
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Screening Date 17-Oct-2007

Docket No. 2007-1599-MLM-E

PCW

Respondent City of Kirbyville

Policy Revision 2 (September 2002)

Case ID No. 34951

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102186053

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	13	65%
	Other written NOVs	0	0%
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) 65%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent self-reported nine months of effluent quality violations and was issued four written NOV's for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW		
Respondent City of Kirbyville		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 34951		<i>PCW Revision November 6, 2007</i>		
Reg. Ent. Reference No. RN102186053				
Media [Statute] Water Quality				
Enf. Coordinator Pamela Campbell				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0014384001, Operational Requirements No. 1			
Violation Description	Failed to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions, as documented during an investigation conducted on June 20, 2007. Specifically, the following deficiencies were documented with Clarifier No. 1: the effluent weir was not level and corrosion was noted on the underflow weir and the skimmer arm; and the following deficiencies were documented with Clarifier No. 2: the effluent weir was corroded to the point that water was passing through holes, allowing short circuiting of the unit, and the scum box had holes in the unit.			
	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"/>	x
			Percent	<input type="text" value="5%"/>
>> 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	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels.			
	Adjustment	<input type="text" value="\$9,500"/>		
		<input type="text" value="\$500"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="119"/>
<i>mark only one with an x</i>	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="text" value="x"/>		
			Violation Base Penalty	<input type="text" value="\$500"/>
	One single event is recommended.			
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$1,592"/>	Violation Final Penalty Total	<input type="text" value="\$828"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$828"/>

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost
Date Required
Final Date
Yrs
Interest Saved
Onetime Costs
EB Amount

Item Description No commas or \$

Delayed Costs

Equipment			0.0	\$0	\$0	\$0
Buildings			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0
Engineering/construction			0.0	\$0	\$0	\$0
Land			0.0	\$0	n/a	\$0
Record Keeping System			0.0	\$0	n/a	\$0
Training/Sampling			0.0	\$0	n/a	\$0
Remediation/Disposal	\$33,500	20-Jun-2007	1-Jun-2008	1.0	\$1,592	\$1,592
Permit Costs			0.0	\$0	n/a	\$0
Other (as needed)			0.0	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost associated with repairing/replacing the effluent weir in Clarifier No. 1 and remediating the corrosion in Clarifier Nos. 1 and 2. Date required is the date of the investigation. Final date is the anticipated date of compliance.

Avoided Costs

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

Disposal			0.0	\$0	\$0	\$0
Personnel			0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.0	\$0	\$0	\$0
Supplies/equipment			0.0	\$0	\$0	\$0
Financial Assurance [2]			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$33,500 TOTAL \$1,592

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34951	<small>PCW Revision November 6, 2007</small>	
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	30 Tex. Admin. Code § 319.1 and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 1	
Violation Description	Failed to correctly report analytical data on discharge monitoring reports, as documented during an investigation conducted on June 20, 2007. Specifically, data was incorrectly reported in gallons per day, rather than million gallons per day, during the months of January, February and March 2007.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm					
	Release	Major	Moderate	Minor		Percent <input type="text" value="0%"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>			

>> Programmatic Matrix

	Falsification					
		Major	Moderate	Minor		Percent <input type="text" value="1%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>		
Matrix Notes	Less than 30% of the requirement was not met.					

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text" value="x"/>	

Violation Base Penalty

Three single events are recommended (one for each report).

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

Estimated EB Amount <input type="text" value="\$3"/>	Violation Final Penalty Total <input type="text" value="\$497"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$497"/>	

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$150	20-Feb-2007	9-Jul-2007	0.4	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with correcting the three reports and submitting them to the TCEQ. Date required is the date the first report was due. Final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$3

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34951	<small>PCW Revision November 6, 2007</small>	
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number <input type="text" value="3"/>		
Rule Cite(s)	30 Tex. Admin. Code § 319.11(a) and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 2	
Violation Description	Failed to comply with test procedures for analyses of pollutants, as documented by an investigation conducted on June 20, 2007. Specifically, potassium iodide was not used when performing the manganese correction portion of the total chlorine residual analysis.	
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"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels.			
Adjustment				<input type="text" value="\$9,500"/>

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="69"/>	Number of violation days												
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table>	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"/>
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"/>													
One single event is recommended.														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$828"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$828"/>	

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
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
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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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	20-Jun-2007	28-Aug-2007	0.2	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost of conducting the testing appropriately for total chlorine residual. Date required is the date of the investigation. 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$150

TOTAL \$1

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34951	<small>PCW Revision November 6, 2007</small>	
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number <input type="text" value="4"/>		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 7.a.	
Violation Description	Failed to provide noncompliance notification to the TCEQ for unauthorized discharges orally within 24 hours and in writing within five days of becoming aware of discharges, as documented by an investigation conducted on June 20, 2007. Specifically, the splitter box and chlorine contact chamber continuously discharge partially treated wastewater from concrete joints and notifications were not provided.	
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 type="text"/>	Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>		<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	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

Two single events are recommended (one for each unit).

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$5"/>	Violation Final Penalty Total <input type="text" value="\$3,311"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,311"/>	

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	20-Jun-2007	1-Jun-2008	1.0	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost associated with notification. Date required is the date of the investigation. Final date is the anticipated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance TOTAL

\$100	\$5
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Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34951	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number <input type="text" value="5"/>		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(4), and TPDES Permit No. WQ0014384001, Permit Conditions No. 2(g)	
Violation Description	Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented by an investigation conducted on June 20, 2007. Specifically, the splitter box and chlorine contact chamber continuously discharge partially treated wastewater from concrete joints. Discharge from the splitter box was flowing onto the ground adjacent to the splitter box. Discharge from the chlorine contact chamber was flowing under the fence and pooling in a low area adjacent to the fence.	
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 checked="" type="text" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="10%"/>	

>> 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	Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.				
				Adjustment <input type="text" value="\$9,000"/>	

Violation Events

Number of Violation Events <input type="text" value="4"/>	<input type="text" value="119"/>	Number of violation days												
<i>mark only one with an x</i>	<table border="1" style="margin: auto;"> <tr><td style="padding: 2px;">daily</td><td style="width: 40px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="text-align: center;"><input checked="" type="text" value="x"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text" value="x"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$4,000"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input checked="" type="text" value="x"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
Four quarterly events (two quarters each for two units) are recommended from the date of the investigation on June 20, 2007 through the date of screening on October 17, 2007.														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,592"/>	Violation Final Penalty Total <input type="text" value="\$6,622"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,622"/>	

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$33,500	20-Jun-2007	1-Jun-2008	1.0	\$1,592	n/a	\$1,592

Notes for DELAYED costs

Estimated cost associated with repairing the splitter box and chlorine contact chamber. Date required is the date of the investigation. Final date is the anticipated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$33,500

TOTAL

\$1,592

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34951	<small>PCW Revision November 6, 2007</small>	
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number <input type="text" value="6"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 330.15"/>	
Violation Description	<input type="text" value="Failed to prevent the unauthorized discharge of wastewater generated from washing out garbage trucks at the Facility, as documented during an investigation conducted on June 20, 2007. Specifically, garbage trucks have been washed out at the rear of the Facility and the washwater ran off site."/>	
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 checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="10%"/>	

>> 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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description No commas or \$

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$100	1-Jun-2007	1-Oct-2007	1.3	\$6	\$100	\$106

Notes for AVOIDED costs

Estimated cost associated with washing the garbage trucks at a car washing facility. Date required is the approximate date the practice of washing the trucks out at the Facility began. Final date is the date of compliance.

Approx. Cost of Compliance \$100

TOTAL \$106

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34951	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number 7		
Rule Cite(s)	Tex. Water Code § 26.121(a) and TPDES Permit No. WQ0014384001, Permit Conditions No. 2.g.	
Violation Description	Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented by an investigation conducted on June 20, 2007. Specifically, on October 15 through 18, 24, and November 5, 2006, an unknown quantity of wastewater discharged from various locations of the collection system due to inflow and infiltration occurring during rainfall (see the attached unauthorized discharge table).	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>

>> 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	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.				

Adjustment

Violation Events

	<input type="text" value="6"/>		<input type="text" value="6"/>	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty <input type="text" value="\$6,000"/>
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
Six single events are recommended (one for each discharge documented).				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$18"/>	Violation Final Penalty Total <input type="text" value="\$9,934"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$9,934"/>	

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$6,000	15-Oct-2006	6-Nov-2006	0.1	\$18	n/a	\$18

Notes for DELAYED costs

Estimated cost associated with repairing the collection system and disinfection of the affected areas. Date required is the initial discharge date. Final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

TOTAL

\$18

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 34951		<small>PCW Revision November 6, 2007</small>
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number 8		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0014384001, Operational Requirements No. 1	
Violation Description	Failed to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions, as documented during an investigation conducted on June 20, 2007. Specifically, the Weaver lift station had leaks in both lift pump check valves, the high water alarm was not connected, and three adjacent manholes nearest three gravity lines feeding the lift station were in poor condition (missing grout/not water tight).	
	Base Penalty	\$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 checked="" type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>

>> 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	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed protective levels.				

Adjustment

Violation Events

	<input type="text" value="2"/>	<input type="text" value="119"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="text"/>		Violation Base Penalty <input type="text" value="\$2,000"/>
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		

Two quarterly events are recommended from the date of the investigation on June 20, 2007 through the date of screening on October 17, 2007.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$48"/>	Violation Final Penalty Total <input type="text" value="\$3,311"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,311"/>	

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
Media Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	20-Jun-2007	1-Jun-2008	1.0	\$48	n/a	\$48

Notes for DELAYED costs

Estimated cost associated with repairs to the Weaver lift station. Date required is the date of the investigation. Final date is the anticipated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$48

Screening Date 17-Oct-2007	Docket No. 2007-1599-MLM-E	PCW
Respondent City of Kirbyville	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34951	<small>PCW Revision November 6, 2007</small>	
Reg. Ent. Reference No. RN102186053		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		
Violation Number 9		
Rule Cite(s)	30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. WQ0014384001, Operational Requirements No. 1	
Violation Description	Failed to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions, as documented during an investigation conducted on June 20, 2007. Specifically, erosion was observed to be creating deep holes beside the foundations of the old wet well and influent lift station.	
Base Penalty		\$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"/>	x	Percent <input type="text" value="5%"/>	

>> 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 Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	x	

Violation Base Penalty

One single event is recommended.

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

Estimated EB Amount <input type="text" value="\$24"/>	Violation Final Penalty Total <input type="text" value="\$828"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$828"/>	

Economic Benefit Worksheet

Respondent City of Kirbyville
Case ID No. 34951
Reg. Ent. Reference No. RN102186053
Media Water Quality
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	20-Jun-2007	1-Jun-2008	1.0	\$24	n/a	\$24

Notes for DELAYED costs

Estimated cost associated with purchasing and applying slurry to the erosion. Date required is the date of the investigation. Final date is the anticipated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$24

City of Kirbyville
Docket No. 2007-1599-MLM-E
CCEDS No. 34951

UNAUTHORIZED DISCHARGE TABLE

Date	Location	Quantity
October 15 – 18, 2006	collection system overflowed at Weaver, W. MLK, Stringer and Elijah lift stations	Unknown
October 24, 2006	manhole at 401 East Dole Bean Street	Unknown
November 5, 2006	ditch near 303, 305, 307, and 413 West Lester Hawthorn Street	Unknown
November 5, 2006	manhole at Dole Bean Street and Elizabeth Avenue	Unknown
November 5, 2006	manhole at 316 West Levert Street	Unknown
November 5, 2006	collection line at 306 W. MLK Avenue	Unknown

Compliance History

Customer/Respondent/Owner-Operator: CN600669691 City of Kirbyville Classification: AVERAGE Rating: 2.39
Regulated Entity: RN102186053 CITY OF KIRBYVILLE Classification: AVERAGE Site Rating: 1.15

WASTEWATER TREATMENT PLANT

ID Number(s): WASTEWATER PERMIT WQ0014384001
WASTEWATER PERMIT TPDES0023574
WASTEWATER PERMIT TX0023574
SLUDGE REGISTRATION 23942

Location: Located approximately 3/4 mile east of the intersection of United States Highway 96
and Main Street, Kirbyville,

TCEQ Region: REGION 10 – BEAUMONT Rating Date: September 01 07 Repeat Violator: NO

Date Compliance History Prepared: November 17, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 17, 2002 to November 17, 2007

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

Name: Laurie Eaves Phone: 512/239-4495

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 11/18/2002 (167948)
- 2 12/20/2002 (167951)
- 3 01/21/2003 (167955)
- 4 02/14/2003 (167920)
- 5 03/21/2003 (167923)
- 6 04/22/2003 (167928)
- 7 05/19/2003 (299503)
- 8 06/20/2003 (299504)
- 9 07/24/2003 (299506)
- 10 09/17/2003 (299508)
- 11 10/13/2003 (299509)
- 12 10/30/2003 (299507)
- 13 11/17/2003 (299510)
- 14 12/22/2003 (299511)
- 15 01/23/2004 (299512)
- 16 02/17/2004 (299501)
- 17 03/15/2004 (299502)
- 18 04/26/2004 (353774)
- 19 05/20/2004 (353775)
- 20 06/17/2004 (299505)
- 21 07/16/2004 (353776)
- 22 09/20/2004 (353778)
- 23 09/21/2004 (353777)
- 24 10/18/2004 (353779)
- 25 11/18/2004 (382792)
- 26 12/23/2004 (382793)

27 01/24/2005 (382794)
28 02/17/2005 (382790)
29 03/15/2005 (382791)
30 04/15/2005 (420595)
31 05/23/2005 (420596)
32 06/21/2005 (420597)
33 06/27/2005 (397007)
34 07/14/2005 (441616)
35 09/07/2005 (441617)
36 09/07/2005 (399675)
37 09/16/2005 (441618)
38 10/17/2005 (470005)
39 12/08/2005 (470006)
40 12/19/2005 (470007)
41 01/12/2006 (470008)
42 02/07/2006 (439895)
43 02/15/2006 (470003)
44 03/15/2006 (470004)
45 04/19/2006 (499174)
46 05/12/2006 (499175)
47 06/14/2006 (499176)
48 07/13/2006 (521215)
49 09/05/2006 (521216)
50 09/14/2006 (490333)
51 09/18/2006 (521217)
52 08/17/2007 (571547)

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

Date: 02/28/2003 (167923)
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: 03/31/2003 (167928)
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: 12/01/2003 (251732)
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to equip lift stations with audio-visual alarms. On 10/7/03, the Pine Street Lift Station, Weaver Lift Station, Little House Lift Station, Highway 8 Lift Station, Boatmen Lift Station, and Car Wash Lift Station were observed to not support an audible alarm.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to maintain an operable visible high water alarm at the Weaver Lift Station.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to ensure that lift stations are protected by intruder resistant fencing. On 10/7/03, large gaps were observed between the fencing and ground surface at the South County Road Lift Station and the West Kirbyville Lift Station.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to properly operate and maintain units of conveyance by failing to ensure that the wet well serving the Car Wash Lift Station is either protected by an intruder resistant fence or is locked to prevent unauthorized access.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to properly operate and maintain units of treatment. On 10/7/03, one drying bed was observed to be inoperable due to a damaged gate.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT WQ 14834-001
Description: Failure to properly operate and maintain units of treatment by failure to properly manage the sludge inventory within the wastewater treatment plant. On 10/7/03, the plant solids loading appeared to be high.

Date: 12/31/2003 (299512)
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: 02/29/2004 (299502)
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: 04/30/2004 (353775)
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 (382791)
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: 04/06/2005 (377205)
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT PC 2g
Description: Failure by the permittee to prevent unauthorized discharges into or adjacent to the waters of the state.

Date: 04/14/2005 (372580)
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT M&RR 7bi
Description: Failure by the permittee to notify the Region 10 office within 24 hours of becoming aware of an unauthorized discharge.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT PC 2g
Description: Failure by the permittee to prevent unauthorized discharges into or adjacent to the waters of the state.

Date: 07/31/2005 (441617)
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: 08/31/2005 (441618)
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 (470005)
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: 02/08/2006 (439895)
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to equip lift stations with audio-visual alarms. On 10/7/03, the Pine Street Lift Station, Weaver Lift Station, Little House Lift Station, Highway 8 Lift Station, Boatmen Lift Station, and Car Wash Lift Station were observed to not support an audible alarm.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to maintain an operable visible high water alarm at the Weaver Lift Station.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to ensure that lift stations are protected by intruder resistant fencing. On 10/7/03, large gaps were observed between the fencing and ground surface at the South County Road Lift Station and the West Kirbyville Lift Station.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to properly operate and maintain units of conveyance by failing to ensure that the wet well serving the Car Wash Lift Station is either protected by an intruder resistant fence or is locked to prevent unauthorized access.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to properly operate and maintain units of treatment. On 10/7/03, one drying bed was observed to be inoperable due to a damaged gate.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT WQ 14384-001
Description: Failure to properly operate and maintain units of treatment by failure to properly manage the sludge inventory within the wastewater treatment plant. On 10/7/03, the plant solids loading appeared to be high.
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT M&RR 3b
Description: Failure by the City of Kirbyville to maintain the required records and have them available for review during the investigation.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov: PERMIT OpR 1
Description: Failure by the City of Kirbyville to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: PERMIT OpR 1

Description: Failure by the City of Kirbyville to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)

Rqmt Prov: PERMIT M&RR 2

Description: Failure by the City of Kirbyville to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov: PERMIT PC 1a

Description: Failure by the City of Kirbyville to report the correct analytical results on the discharge monitoring reports (DMRs).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)

Rqmt Prov: PERMIT M&RR 2

Description: Failure by the City of Kirbyville to properly conduct the total chlorine residual analysis.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 3b

Description: Failure by the City of Kirbyville to maintain a complete dissolved oxygen (DO) meter calibration log.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 2

Description: Failure by the City of Kirbyville to check the colorimeter used for chlorine residual analysis against secondary standards.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT OT 6

Description: Failure by the City of Kirbyville to submit a summary submittal letter to the TCEQ Wastewater Permitting Section within 60 days of permit issuance.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT PC 2g

Description: Failure by the City of Kirbyville to prevent unauthorized discharges into or adjacent to the waters of the state.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 7a

Description: Failure by the City of Kirbyville to submit a 5-day written report within 5 days of becoming aware of an unauthorized discharge from the sewage collection system.

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 THE
CITY OF KIRBYVILLE
RN102186053

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2007-1599-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 Kirbyville ("the City") under the authority of TEX. WATER CODE chs. 7 and 26, and ~~TEX. HEALTH & SAFETY CODE ch. 361~~. ~~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 wastewater treatment facility located approximately 3/4 mile east of the intersection of United States Highway 96 and Main Street in Kirbyville, Jasper County, Texas (the "Facility").

2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. During an investigation on June 20, 2007, TCEQ staff documented the following deficiencies with Clarifier No. 1: the effluent weir was not level and corrosion was noted on the underflow weir and the skimmer arm; and the following deficiencies with Clarifier No. 2: the effluent weir was corroded to the point that water was passing through holes, allowing short circuiting of the unit, and the scum box had holes in the unit.
5. During an investigation on June 20, 2007, TCEQ staff documented that the City did not correctly report analytical data on discharge monitoring reports. Specifically, data was incorrectly reported in gallons per day, rather than million gallons per day, during the months of January, February and March 2007.
6. During an investigation on June 20, 2007, TCEQ staff documented that the City did not comply with test procedures for analyses of pollutants. Specifically, potassium iodide was not used when performing the manganese correction portion of the total chlorine residual analysis.
7. During an investigation on June 20, 2007, TCEQ staff documented that the City did not provide ~~noncompliance notification to the TCEQ for unauthorized discharges orally within 24 hours and in writing within five days of becoming aware of discharges.~~ Specifically, the splitter box and chlorine contact chamber continuously discharge partially treated wastewater from concrete joints and notifications were not provided.
8. During an investigation on June 20, 2007, TCEQ staff documented that the City did not prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, the splitter box and chlorine contact chamber continuously discharge partially treated wastewater from concrete joints. Discharge from the splitter box was flowing onto the ground adjacent to the splitter box. Discharge from the chlorine contact chamber was flowing under the fence and pooling in a low area adjacent to the fence.
9. During an investigation on June 20, 2007, TCEQ staff documented an unauthorized discharge of wastewater generated from washing out garbage trucks at the Facility. Specifically, garbage trucks have been washed out at the rear of the Facility and the washwater ran off site.
10. During an investigation on June 20, 2007, TCEQ staff documented that the City did not prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, an unknown quantity of wastewater discharged from various locations of the collection system due to inflow and infiltration occurring during rainfall as detailed below:

Date	Location	Quantity
October 15 – 18, 2006	collection system overflowed at Weaver, W. MLK, Stringer and Elijah lift stations	Unknown
October 24, 2006	manhole at 401 East Dole Bean Street	Unknown
November 5, 2006	ditch near 303, 305, 307, and 413 West Lester Hawthorn Street	Unknown
November 5, 2006	manhole at Dole Bean Street and Elizabeth Avenue	Unknown
November 5, 2006	manhole at 316 West Levert Street	Unknown
November 5, 2006	collection line at 306 W. MLK Avenue	Unknown

11. During an investigation on June 20, 2007, TCEQ staff documented that the Weaver lift station had leaks in both lift pump check valves, the high water alarm was not connected, and three adjacent manholes nearest three gravity lines feeding the lift station were in poor condition (missing grout/not water tight).
12. ~~During an investigation on June 20, 2007, TCEQ staff documented that erosion was observed to be creating deep holes beside the foundations of the old wet well and influent lift station.~~
13. The City received notice of the violations on August 23, 2007.
14. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. By July 9, 2007, corrected discharge monitoring reports were submitted to the TCEQ for the months of January, February, and March 2007 which noted the reported flows in million gallons per day;
 - b. By August 28, 2007, the City had purchased and began using potassium iodide for the manganese correction portion of the total chlorine residual analysis;
 - c. By August 28, 2007, the City purchased check valve assemblies and repaired the two lift pump check valves at the Weaver lift station;
 - d. By October 1, 2007, the City ceased washing out garbage trucks and contracted with a private sanitation company for city-wide waste disposal; and
 - e. By November 6, 2006, the City repaired the manholes/collection system, and cleaned and disinfected the affected areas outlined in Section 1, Paragraph 10.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to 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 properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions, as documented during an investigation conducted on June 20, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014384001, Operational Requirements No. 1.
3. As evidenced by Findings of Fact No. 5, the City failed to correctly report analytical data on discharge monitoring reports, in violation of 30 TEX. ADMIN. CODE § 319.1 and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 1.
4. As evidenced by Findings of Fact No. 6, the City failed to comply with test procedures for analyses of pollutants, in violation of 30 TEX. ADMIN. CODE § 319.11(a) and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 2.
5. As evidenced by Findings of Fact No. 7, the City failed to provide noncompliance notification to the TCEQ for unauthorized discharges, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0014384001, Monitoring and Reporting Requirements No. 7.a.
- ~~6. As evidenced by Findings of Fact No. 8, the City failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(4), and TPDES Permit No. WQ0014384001, Permit Conditions No. 2(g).~~
7. As evidenced by Findings of Fact No. 9, the City failed to prevent the unauthorized discharge of wastewater generated from washing out garbage trucks at the Facility, in violation of 30 TEX. ADMIN. CODE § 330.15.
8. As evidenced by Findings of Fact No. 10, the City failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0014384001, Permit Conditions No. 2(g).
9. As evidenced by Findings of Fact No. 11, the City failed to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0014384001, Operational Requirements No. 1.
10. As evidenced by Findings of Fact No. 12, the City failed to properly operate and maintain all systems of treatment and control (and related appurtenances) installed or used to achieve compliance with permit conditions, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. WQ0014384001, Operational Requirements No. 1.

11. Pursuant to 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.
12. An administrative penalty in the amount of Twenty-Nine Thousand Four Hundred Seventy Dollars (\$29,470) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the City and determined that the City is unable to pay the administrative penalty. Therefore, Twenty-Nine Thousand Four Hundred Seventy Dollars (\$29,470) of the penalty is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

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 Twenty-Nine Thousand Four Hundred Seventy Dollars (\$29,470) as set forth in Section II, Paragraph 12 above, for violations of TCEQ rules and state statutes. 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 Kirbyville, Docket No. 2007-1599-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the standard operating procedures for the Facility and conduct employee training to ensure that all reporting requirements are properly accomplished;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.1.;

- c. Within 60 days after the effective date of this Agreed Order, repair or replace the effluent weir in Clarifier No. 1 and remediate corrosion in Clarifier Nos. 1 and 2;
- d. Within 60 days after the effective date of this Agreed Order, repair and cease all discharges from the splitter box and chlorine contact chamber;
- e. Within 60 days after the effective date of this Agreed Order, provide an operable high water alarm and repair the three adjacent manholes nearest three gravity lines feeding the Weaver lift station;
- f. Within 60 days after the effective date of this Agreed Order, fill in and prevent further erosion beside the foundations of the old wet well and influent lift station;
- g. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.c. through 2.f., as described in Ordering Provision No. 2.1.;
- h. Within 90 days after the effective date of this Agreed Order, conduct an engineering evaluation of the Facility to assess the extent of infiltration and inflow ("I/I") of storm water into the collection system and the impacts of I/I on hydraulic loading and performance at the Facility. The evaluation shall be prepared by a licensed Texas professional engineer;
- i. Within 180 days after the effective date of this Agreed Order, complete a plan and schedule for the completion of necessary corrective actions to fully rehabilitate the Facility based on the engineering evaluation. This schedule should allow for completion of all repairs within 365 days after the effective date of this Agreed Order. The City shall provide a copy of the plan and schedule to the addresses listed in Ordering Provision No. 2.1.;
- j. Within 365 days after the effective date of this Agreed Order, complete all necessary corrective actions to fully rehabilitate the Facility based on the engineering plan and schedule referenced in Ordering Provision No. 2.i.;
- k. Within 380 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.j., as described in Ordering Provision No. 2.1. of this section; and
- l. All certifications shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the Ordering Provisions of this section. The certifications 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 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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. ~~If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.~~
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.
7. 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.
8. 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.

9. 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.
10. 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 Srdin
For the Executive Director

3/12/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Kirbyville. I am authorized to agree to the attached Agreed Order on behalf of the City of Kirbyville, 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 Kirbyville 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.

Giles Horn
Signature

12-16-08
Date

Giles Horn
Name (Printed or typed)
Authorized Representative of the
City of Kirbyville

Mayor
Title

