

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1387-MWD-E **TCEQ ID:** RN102896255 **CASE NO.:** 38188  
**RESPONDENT NAME:** City of Wolfe City

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Wolfe City, located adjacent to Oyster Creek approximately 0.3 mile east of State Highway 34 and 0.5 mile south of Wolfe City, Hunt County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility and associated collection system</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on January 8, 2009, alleging nuisance odors. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 11, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Bryan Creed, Mayor, City of Wolfe City, P.O. Box 106, Wolfe City, Texas 75496  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> January 8, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> March 3, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 29, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>1) Failed to prevent the unauthorized discharges of wastewater. Specifically, during the period of February 2008 through February 2009, the Respondent reported three unauthorized discharges [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010383001, Permit Conditions 2.g.].</p> <p>2) Failed to submit complete and accurate discharge monitoring reports ("DMRs"). Specifically, pH was not reported on the DMR for the monitoring period ending May 31, 2008, fecal coliform was reported incorrectly on the DMR for the monitoring period ending October 31, 2008, and flow was reported incorrectly for the monitoring periods ending April 30, 2008 and July 31, 2008 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(c), and TPDES Permit No. WQ0010383001, Monitoring and Reporting Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$7,990</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$7,990</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b>                      The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the revised corrected DMRs for the monitoring periods ending May 31, 2008, July 31, 2008, and October 31, 2008 on April 10, 2009 and has implemented the following corrective measures at the Facility:</p> <p>a. On April 10, 2008, spread lime and began taking bids to obtain a generator;</p> <p>b. On March 6, 2008, dug a pit, pumped the discharge, and repaired the main; and</p> <p>c. On February 4, 2009, disinfected the area, cleared the backup, and began repairs on the manhole.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit the complete and accurate DMR for monitoring period ending April 30, 2008; and</p> <p>ii. Complete the repairs on the manhole.</p> <p>b. Within 45 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 Provisions a.i and a.ii.</p>

Additional ID No(s): WQ0010383001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	10-Aug-2009	Screening	19-Aug-2009	EPA Due	
	PCW	1-Sep-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Wolfe City		
Reg. Ent. Ref. No.	RN102896255		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38188	No. of Violations	2
Docket No.	2009-1387-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

Total EB Amounts   
Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 19-Aug-2009

Docket No. 2009-1387-MWD-E

PCW

Respondent City of Wolfe City

Policy Revision 2 (September 2002)

Case ID No. 38188

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102896255

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

## Compliance History Worksheet

## &gt;&gt; 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)	23	115%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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) 135%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement recommended for having 23 NOVs for the same or similar violations and one Agreed Order with denial of liability within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 135%

<b>Screening Date</b> 19-Aug-2009	<b>Docket No.</b> 2009-1387-MWD-E
<b>Respondent</b> City of Wolfe City	<b>PCW</b> <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2009</small>
<b>Case ID No.</b> 38188	
<b>Reg. Ent. Reference No.</b> RN102896255	
<b>Media [Statute]</b> Water Quality	
<b>Enf. Coordinator</b> Samuel Short	
<b>Violation Number</b> 1	
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010383001, Permit Conditions 2.g.
<b>Violation Description</b>	Failed to prevent the unauthorized discharges of wastewater. Specifically, during the period of February 2008 through February 2009, the City reported three unauthorized discharges as shown in the attached table.
<b>Base Penalty</b>	\$10,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	Harm				
	Release	Major	Moderate		Minor
	Actual				X
	Potential			Percent	10%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor		
					Percent	0%

**Matrix Notes**

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events <input style="width: 50px;" type="text" value="3"/>	Number of violation days <input style="width: 50px;" type="text" value="8"/>
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<small>mark only one with an x</small>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

**Violation Base Penalty** \$3,000

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

**Good Faith Efforts to Comply**

	0.0% Reduction
	Before NOV      NOV to EDPRP/Settlement
Extraordinary	
Ordinary	
N/A	X (mark with x)

**Notes** The City does not meet the good faith criteria for this violation.

**Violation Subtotal** \$3,000

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input style="width: 100px;" type="text" value="\$2,666"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$7,050"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width: 100px;" type="text" value="\$7,050"/>	

## Economic Benefit Worksheet

**Respondent** City of Wolfe City  
**Case ID No.** 38188  
**Reg. Ent. Reference No.** RN102896265  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Item Description</b>	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	\$2,500	29-Feb-2008	4-Feb-2009	0.93	\$8	\$156	\$163
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	\$3,000	29-Feb-2008	4-Feb-2009	0.93	\$140	n/a	\$140
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$22,000	29-Feb-2008	23-Apr-2010	2.15	\$2,363	n/a	\$2,363

Notes for DELAYED costs

The estimated cost to repair the collapsed main (\$1,500) and clear the backup (\$1,000). Date required is the date that the discharge occurred due to the collapsed main and the final date is the date the last backup was cleared. The estimated costs to spread lime and clean up the unauthorized discharges (\$1,000 per discharge). Date required is the date of the first discharge and the final date is the date the last discharge was cleaned up. The estimated cost to obtain a generator to prevent future unauthorized discharges (\$20,000) and repair the manhole (\$2,000). Date required is the date that the first discharge occurred. Final date is the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$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

\$27,500

TOTAL

\$2,666

<b>Screening Date:</b> 19-Aug-2009	<b>Docket No.:</b> 2009-1387-MWD-E	<b>PCW</b>	
<b>Respondent:</b> City of Wolfe City		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.:</b> 38188		<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.:</b> RN102896255			
<b>Media [Statute]:</b> Water Quality			
<b>Enf. Coordinator:</b> Samuel Short			
<b>Violation Number:</b> 2			
<b>Rule Cite(s):</b>	30 Tex. Admin. Code §§ 305.126(1) and 319.7(c), and TPDES Permit No. WQ0010383001, Monitoring and Reporting Requirements No. 1		
<b>Violation Description:</b>	Failed to submit complete and accurate discharge monitoring reports ("DMR"). Specifically, pH was not reported on the DMR for the monitoring period ending May 31, 2008, fecal coliform was reported incorrectly on the DMR for the monitoring period ending October 31, 2008, and flow was reported incorrectly for the monitoring periods ending April 30, 2008 and July 31, 2008.		
	<b>Base Penalty:</b>	\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual		<b>Percent</b> 0%
	Potential		
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major      Moderate      Minor	
			<b>Percent</b> 1%
<b>Matrix Notes</b>	Greater than 70% of the rule requirement was met.		
	<b>Adjustment:</b>	\$9,900	
			\$100
<b>Violation Events</b>			
	<b>Number of Violation Events:</b>	4	<b>Number of violation days:</b> 136
<small>mark only one with an x</small>	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	<b>Violation Base Penalty</b> \$400
	Four single events are recommended (one for each report).		
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		<small>Before NOV      NOV to EDRP/Settlement Offer</small>	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
<b>Notes:</b>	The City does not meet the good faith criteria for this violation.		
	<b>Violation Subtotal:</b>	\$400	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount:</b>	\$10	<b>Violation Final Penalty Total:</b>	\$940
		<b>This violation Final Assessed Penalty (adjusted for limits):</b>	\$940

### Economic Benefit Worksheet

**Respondent:** City of Wolfe City  
**Case ID No.:** 38188  
**Reg. Ent. Reference No.:** RN102896255  
**Media:** Water Quality  
**Violation No.:** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**  
**Item Description:** 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)				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)	\$100	20-May-2008	23-Apr-2010	1.93	\$10	n/a	\$10

Notes for DELAYED costs

The estimated cost (\$25 per report) to submit accurate DMRs for the monitoring periods ending April 30, 2008; May 31, 2008, July 31, 2008, and October 31, 2008. Date required is the date the first report was due and the final date is the expected date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$10

City of Wolfe City  
Docket No. 2009-1387-MWD-E; RN102896255  
TPDES Permit No. WQ0010383001; Case No. 38188

<b>UNAUTHORIZED DISCHARGE TABLE</b>			
<b>Date</b>	<b>Location</b>	<b>Amount discharged (gallons)</b>	<b>Description</b>
04/10/2008	Wastewater treatment facility	4,000	A power outage due to storm caused a discharge from the wastewater treatment facility.
02/29/2008	Corner of Witt Street and Preston Street	2,000	A sewer backup due to a collapsed main caused a discharge into the alley behind Witt Street and Preston Street.
02/04/2009	Manhole at the corner of Austin Street and Hannah Street	500	Deterioration of the mortar inside the manhole caused a discharge through the manhole infrastructure wall and into an adjacent creek.





Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)

Description: Failed to provide a backflow prevention device.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: 10383-001 PERMIT  
ELMR #3 PERMIT

Description: Failed to comply with permitted effluent limits for dissolved oxygen.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: 10383-001 PERMIT

Description: Failed to comply with the permitted effluent limits to pH.

Classification: Moderate

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

Rqmt Prov: 10383-001 PERMIT

Description: Failed to properly maintain facility.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(11)(B)

Rqmt Prov: M&R Requirements No. 3(b) PERMIT

Description: Failed to maintain monitoring records required by the permit.

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	08/20/2004	(353766)
2	09/23/2004	(353767)
3	10/18/2004	(353768)
4	11/09/2004	(441612)
5	12/20/2004	(382783)
6	01/24/2005	(382784)
7	02/21/2005	(382782)
8	04/07/2005	(266838)
9	05/15/2005	(420588)
10	05/16/2005	(420590)
11	06/16/2005	(420591)
12	07/15/2005	(441609)
13	08/31/2005	(441610)
14	09/15/2005	(441611)
15	09/19/2005	(441608)
16	10/17/2005	(469994)
17	11/14/2005	(469995)
18	12/15/2005	(469996)
19	01/12/2006	(469997)
20	02/15/2006	(469992)
21	03/13/2006	(469993)
22	04/14/2006	(499167)
23	05/15/2006	(499168)
24	06/15/2006	(499169)
25	07/14/2006	(521209)
26	08/14/2006	(521210)
27	09/15/2006	(521211)
28	10/16/2006	(545722)

29	01/18/2007	(577478)
30	01/18/2007	(577479)
31	02/16/2007	(577473)
32	03/16/2007	(577474)
33	04/20/2007	(577475)
34	06/25/2007	(577476)
35	06/25/2007	(577477)
36	08/22/2007	(602205)
37	08/22/2007	(602206)
38	01/23/2008	(750980)
39	02/19/2008	(616245)
40	05/19/2008	(654547)
41	06/19/2008	(711522)
42	06/25/2008	(682512)
43	06/30/2008	(690676)
44	06/30/2008	(690677)
45	06/30/2008	(690678)
46	06/30/2008	(690679)
47	06/30/2008	(690680)
48	06/30/2008	(690681)
49	06/30/2008	(690682)
50	06/30/2008	(690683)
51	06/30/2008	(690684)
52	07/17/2008	(684602)
53	07/23/2008	(711523)
54	08/17/2008	(711524)
55	09/23/2008	(711525)
56	10/20/2008	(728050)
57	11/21/2008	(728051)
58	12/23/2008	(728052)
59	02/24/2009	(750959)

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

Date:	08/31/2004 (353767)	CN600646749		
Self Report?	YES		Classificatio	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:	09/30/2004 (353768)	CN600646749		
Self Report?	YES		Classificatio	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 (382783)	CN600646749		
Self Report?	YES		Classificatio	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:	04/30/2005 (420590)	CN600646749		
Self Report?	YES		Classificatio	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	05/31/2005 (420591)	CN600646749		
Self Report?	YES		Classificatio	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:	06/17/2005 (395985)	CN600646749		
Self Report?	NO		Classificatio	Major
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)			
Description:	Failure to prevent an unauthorized discharge, to properly operate and maintain the wastewater collection system, and to notify the TCEQ of the discharge.			
Date:	06/30/2005 (441609)	CN600646749		
Self Report?	YES		Classificatio	Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 07/31/2005 (441610) CN600646749  
 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 (469994) CN600646749  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 10/31/2005 (469995) CN600646749  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 05/31/2006 (499169) CN600646749  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 06/30/2006 (521209) CN600646749  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 07/31/2006 (521210) CN600646749  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 08/31/2006 (521211) CN600646749  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 05/31/2007 (577477) CN600646749  
 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 06/30/2007 (602205) CN600646749  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date 08/01/2007 (570844) CN600646749  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(2)  
 Description: Failure to prevent unauthorized discharge of wastewater from the collection system.  
 Date 08/31/2007 (690680) CN600646749  
 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 02/28/2008 (616245) CN600646749  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
 2D TWC Chapter 26, SubChapter A 26.121(b)  
 2D TWC Chapter 26, SubChapter A 26.121(c)  
 2D TWC Chapter 26, SubChapter A 26.121(d)

30 TAC Chapter 305, SubChapter F 305.125(4)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 TPDES 10383-001 PERMIT  
 TWC Chapter 26 26.121  
 TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent the discharge of untreated wastewater. During the period of review which included all of FY07 and the first half of FY08, Wolfe City has reported a total of 10 unauthorized discharges. During FY07 Wolfe City reported eight unauthorized discharges from both the collection system and the WWTF headworks totaling 22,400 gallons. Thus far during FY08 Wolfe City has reported two unauthorized discharges totaling 225 gallons.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TPDES 10383-001 PERMIT

Description: Failure to measure flow at the frequency and by the method required by the permit. During the investigation it was learned that the flow was not being measured using the 6 inch Parshall flume. Rather it was being estimated based on a percentage of water usage.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TPDES 10383-001 PERMIT

Description: Failure to maintain compliance with permit effluent parameters for DO, BOD, and pH. The following effluent violations were document in the PCS data for the review period of February 2004 to August 2007: 16 dissolved oxygen minimum, 1 BOD, and 2 pH maximum.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.4  
 TPDES 10383-001 PERMIT

Description: Failure to sample in accordance with permit requirements. The City's contract laboratory was performing CBOD5 analysis when the permit requires BOD5.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)  
 TPDES 10383-001 PERMIT

Description: Failure to ensure that holding times are being met for fecal coliform analysis. During the investigation it was noted that fecal coliform samples are being collected by Ana-Lab's sampler and shipped overnight via Lone Star to the Kilgore facility prior to analysis. Also the chain of custody for the fecal coliform samples is not always completed correctly.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 TPDES 10383-001 PERMIT

Description: Failure to maintain required records for a minimum of three years. During the investigation only 18 month's worth of records were available, from January 2007 to present. All monitoring records, sample measurements, reports, and work logs must be retained for a minimum of three years. All sludge records must be kept for a minimum of five years.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to properly complete discharge monitoring reports. Several DMRs were incorrectly completed, or incomplete. A copy of the EPA NPDES Reporting Requirements Handbook was given to the City for reference.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(B)  
 30 TAC Chapter 317 317.7(j)

Description: Failure to annually test the backflow prevention device and maintain the corresponding test report for three years. In addition, the hose bib behind the pump house did not have a vacuum breaker.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)  
 TPDES 10383-001 PERMIT

Description: Failure to submit the annual sludge report by September 1 each year. Even if no solids are disposed, the annual sludge report must be submitted to both Austin and the DFW Region Office.

Self Report? NO Classification: Minor

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

Description: 30 TAC Chapter 317 317.4(b)(4)  
TPDES 10383-001 PERMIT  
Failure to properly dispose of screenings from the bar screen. Screenings were being held on the drying plate and not transferred to the dumpster in a manner that would reduce vector attraction and control odors.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
30 TAC Chapter 317 317.4(l)  
TPDES 10383-001 PERMIT

Description: Failure to properly maintain the polishing ponds. During the investigation the banks of the ponds were covered with high vegetation and a few small trees. Pond embankments must be kept free of vegetation that may jeopardize the structural integrity of the pond liner or hinder the treatment process. In addition, the ponds must be kept clear of vegetation such as cattails and the water level maintained to a depth of 3 - 5 feet.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
TPDES 10383-001 PERMIT

Description: Failure to properly maintain the Imhoff tanks. The DFW Region acknowledges the efforts made on the part of the City to restore the Imhoff tanks to operating condition; however, a thick layer of scum and rags were observed on both Imhoff tanks.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.7(e)  
Description: Failure to provide an all-weather access road to the WWTF. Many areas of the access road are dirt and heavily rutted. This road must be passable during heavy rainfall events and the driving surface situated above the 100-year flood plain.

Date 04/30/2008 (690679) CN600646749

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 07/31/2008 (711524) CN600646749

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2008 (711525) CN600646749

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 (728050) CN600646749

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 WOLFE CITY  
RN102896255

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-1387-MWD-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 Wolfe City (“the City”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City 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 and associated collection system located adjacent to Oyster Creek approximately 0.3 mile east of State Highway 34 and 0.5 mile south of Wolfe City in Hunt 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. During an investigation on March 3, 2009, TCEQ staff documented that during the period of February 2008 through February 2009, the City reported three unauthorized discharges as indicated in the table below.

<b>UNAUTHORIZED DISCHARGE TABLE</b>			
Date of Discharge	Location	Amount discharged (gallons)	Description
04/10/2008	Wastewater treatment facility	4,000	A power outage due to storm caused a discharge from the wastewater treatment facility.
02/29/2008	Corner of Witt Street and Preston Street	2,000	A sewer backup due to a collapsed main caused a discharge into the alley behind Witt Street and Preston Street.
02/04/2009	Manhole at the corner of Austin Street and Hannah Street	500	Deterioration of the mortar inside the manhole caused a discharge through the manhole infrastructure wall and into an adjacent creek.

4. During an investigation on March 3, 2009, TCEQ staff documented that pH was not reported on the discharge monitoring reports ("DMR") for the monitoring period ending May 31, 2008, fecal coliform was reported incorrectly on the DMR for the monitoring period ending October 31, 2008, and flow was reported incorrectly for the monitoring periods ending April 30, 2008 and July 31, 2008.
5. The City received notice of the violations on May 4, 2009.
6. The Executive Director recognizes that the City submitted the revised corrected DMRs for the monitoring periods ending May 31, 2008, July 31, 2008, and October 31, 2008 on April 10, 2009 and has implemented the following corrective measures at the Facility as indicated in the table below.

<b>Corrective Action Table</b>			
Date of discharge	Date action was completed	Location	Description
04/10/2008	04/10/2008	Wastewater treatment facility	Spread lime and began taking bids to obtain a generator.
02/29/2008	03/06/2008	Corner of Witt Street and Preston Street	Dug a pit, pumped the discharge, and repaired the main.
02/04/2009	02/04/2009	Manhole at the corner of Austin Street and Hannah Street	Disinfected the area, cleared the backup, and repaired the manhole.

## 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. 3, the City failed to prevent the unauthorized discharges of wastewater, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010383001, Permit Conditions 2.g.
3. As evidenced by Findings of Fact No. 4, the City failed to submit complete and accurate DMRs, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(c), and TPDES Permit No. WQ0010383001, Monitoring and Reporting Requirements No. 1.
4. 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.
5. An administrative penalty in the amount of Seven Thousand Nine Hundred Ninety Dollars (\$7,990) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The City has paid the Seven Thousand Nine Hundred Ninety Dollar (\$7,990) administrative 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 Seven Thousand Nine Hundred Ninety Dollars (\$7,990) 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 Wolfe City, Docket No. 2009-1387-MWD-E" to:

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

2. The City shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
  - i. Submit the complete and accurate DMR for monitoring period ending April 30, 2008 to:

Compliance Monitoring Section  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- ii. Complete the repairs on the manhole.
- b. Within 45 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 Nos. 2.a.i and 2.a.ii. 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 fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 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.
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

  
\_\_\_\_\_  
For the Executive Director

9/21/2010  
\_\_\_\_\_  
Date

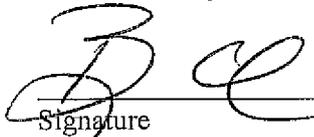
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Wolfe City. I am authorized to agree to the attached Agreed Order on behalf of City of Wolfe City, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

I understand that by entering into this Agreed Order, City of Wolfe City 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.

  
\_\_\_\_\_  
Signature

8/2/2010  
\_\_\_\_\_  
Date

Bryan Creed  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Wolfe City

City of Wolfe City  
\_\_\_\_\_  
Title Mayor

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.