

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1890-MWD-E **TCEQ ID:** RN102075298 **CASE NO.:** 38722

**RESPONDENT NAME:** City of Lewisville

<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 Lewisville, located approximately 2,000 feet southwest of the intersection of Atchison, Topeka &amp; Santa Fe Railroad and Elm Fork of the Trinity River, northeast of the City of Lewisville, Denton County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility with an associated collection system that includes a manhole located at 247 Corporate Drive</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 July 22, 2009, alleging an unauthorized discharge from a manhole. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 26, 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. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Dean Ueckert, Mayor, City of Lewisville, P.O Box 299002, Lewisville, Texas 75029  Ms. Carole Bassinger, Director, Public Services, City of Lewisville, P.O Box 299002, Lewisville, Texas 75029  <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> July 22, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> July 22, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 29, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, on July 21, 2009, an unauthorized discharge, of approximately 3,750 gallons of wastewater, caused by a grease blockage in the collection system, overflowed from a manhole located at 247 Corporate Drive, within the Colonial Village Apartments complex, into an unnamed tributary of Timber Creek. The investigator documented approximately 40 dead fish [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010662001, Permit Conditions No. 2.g].</p>	<p><b>Total Assessed:</b> \$4,850</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> \$4,850</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person 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> Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that by July 22, 2009, the Respondent implemented the following corrective measures at the System:</p> <p>a. Cleared the grease blockage from the collection system at the manhole; and</p> <p>b. Pumped the wastewater from the unnamed creek and surrounding area and properly disposed of the wastewater and dead fish.</p>

Additional ID No(s): WQ0010662001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	2-Nov-2009		
	<b>PCW</b>	13-Nov-2009	<b>Screening</b>	12-Nov-2009
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Lewisville		
<b>Reg. Ent. Ref. No.</b>	RN102075298		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38722	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-1890-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Steve Villatoro
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

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

**Economic Benefit** **Subtotal 6**

Total EB Amounts  **0.0% Enhancement\***  
 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** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 12-Nov-2009

Docket No. 2009-1890-MWD-E

PCW

Respondent City of Lewisville

Policy Revision 2 (September 2002)

Case ID No. 38722

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102075298

Media [Statute]: Water Quality

Enf. Coordinator Steve Villatoro

### 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)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> 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 penalty is enhanced due to three self-reported monthly effluent violations, one NOV with similar violations to those cited in this action, and one NOV with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 12-Nov-2009

Docket No. 2009-1890-MWD-E

PCW

Respondent City of Lewisville

Policy Revision 2 (September 2002)

Case ID No. 38722

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102075298

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010682001, 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 during an investigation conducted on July 22, 2009. Specifically, on July 21, 2009, an unauthorized discharge, of approximately 3,750 gallons of wastewater, caused by a grease blockage in the collection system, overflowed from a manhole located at 247 Corporate Drive, within the Colonial Village Apartments complex, into an unnamed tributary of Timber Creek. The investigator documented approximately 40 dead fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants that exceed protective levels as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

One daily event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

Before NOV NOV to EOPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on July 22, 2009.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$4,850

This violation Final Assessed Penalty (adjusted for limits) \$4,850

# Economic Benefit Worksheet

**Respondent** City of Lewisville  
**Case ID No.** 38722  
**Reg. Ent. Reference No.** RN102075298  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,500	21-Jul-2009	22-Jul-2009	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	\$3,500	21-Jul-2009	22-Jul-2009	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to clear blockage and to clean the affected area, including removal and proper disposal of wastewater and fish. The date required is the date of the discharge. The final date is the date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$6,000	TOTAL	\$1
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# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600535140 City of Lewisville	Classification: AVERAGE	Rating: 2.72
Regulated Entity:	RN102075298 City of Lewisville	Classification: AVERAGE	Site Rating: 0.32

ID Number(s):	WASTEWATER	PERMIT	WQ0010662001
	WASTEWATER	PERMIT	TPDES0052892
	WASTEWATER	PERMIT	TX0052892
	PRETREATMENT	PERMIT	WQ0010662001
	PRETREATMENT	EPA ID	TX0052892000
	WASTEWATER LICENSING	LICENSE	WQ0010662001

Location: located approximately 2,000 feet southwest of the intersection of AT & SF Railroad and Elm Fork of the Trinity River, northeast of the City of Lewisville with a manhole located at 247 Corporate Drive, Lewisville, Denton County, Texas, 75057

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: November 13, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 12, 2004 to November 12, 2009

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

Name: Steve Villatoro Phone: 512-239-4930

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	11/15/2004	(356485)
2	12/09/2004	(343219)
3	12/16/2004	(384292)
4	01/21/2005	(384293)
5	02/23/2005	(384291)
6	03/15/2005	(374082)
7	03/18/2005	(443150)
8	04/18/2005	(443151)
9	05/27/2005	(443152)
10	06/23/2005	(443153)
11	07/19/2005	(443154)
12	08/23/2005	(443155)
13	09/19/2005	(443156)
14	10/25/2005	(443157)
15	11/29/2005	(472842)

16	12/19/2005	(472843)
17	01/18/2006	(472844)
18	02/22/2006	(472840)
19	03/23/2006	(472841)
20	04/24/2006	(501178)
21	05/23/2006	(501179)
22	06/20/2006	(501180)
23	07/24/2006	(523404)
24	08/16/2006	(509112)
25	08/21/2006	(523405)
26	09/21/2006	(523406)
27	10/17/2006	(581358)
28	11/16/2006	(581359)
29	11/29/2006	(518368)
30	11/30/2006	(515763)
31	12/21/2006	(581360)
32	01/22/2007	(581361)
33	02/20/2007	(581352)
34	03/19/2007	(581353)
35	04/16/2007	(581354)
36	05/18/2007	(581355)
37	06/25/2007	(581356)
38	07/20/2007	(581357)
39	08/01/2007	(570623)
40	08/16/2007	(603242)
41	09/17/2007	(603243)
42	10/22/2007	(621667)
43	11/15/2007	(621668)
44	12/20/2007	(673624)
45	01/17/2008	(673625)
46	02/19/2008	(673622)
47	03/19/2008	(673623)
48	04/22/2008	(691880)
49	05/14/2008	(691881)
50	06/13/2008	(712887)
51	07/11/2008	(712888)
52	08/18/2008	(712889)
53	09/23/2008	(712890)
54	10/17/2008	(729104)
55	11/18/2008	(729105)
56	12/12/2008	(729106)
57	01/13/2009	(752267)
58	01/15/2009	(708428)
59	02/17/2009	(752265)
60	03/16/2009	(752266)
61	04/08/2009	(741794)
62	04/08/2009	(741803)
63	04/24/2009	(769939)
64	10/23/2009	(779422)
65	10/29/2009	(763299)

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

Date: 12/10/2004 (343219) CN600535140  
 Self Report? NO Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ0010662-001 PERMIT  
 Description: Failure to obtain authorization to store digested sludge on the sludge field for greater than two years.  
 Date: 02/28/2005 (443150) CN600535140  
 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: 04/30/2005 (443152) CN600535140  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter  
Date: 11/30/2006 (515763) CN600535140  
Self Report? NO Classification: Major  
Citation: TWC Chapter 26 26.121(a)(1)  
WQ0010662-001 PERMIT  
Description: Failure to prevent and notify the TCEQ of any discharge which has reasonable  
likelihood of adversely affecting human health or the environment.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ0010662-001 PERMIT  
Description: Failure to comply with permit limitations.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.6  
Description: Failure to perform required quality assurance/quality control (QA/QC) for fecal  
analyses.  
Date: 03/31/2007 (581354) CN600535140  
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

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 LEWISVILLE  
RN102075298**

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

## **AGREED ORDER DOCKET NO. 2009-1890-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 City of Lewisville ("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 located approximately 2,000 feet southwest of the intersection of Atchison, Topeka & Santa Fe Railroad and Elm Fork of the Trinity River, northeast of the City of Lewisville, with an associated collection system that

includes a manhole located at 247 Corporate Drive in Lewisville, Denton County, Texas (the "System").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on July 22, 2009, TCEQ staff documented an unauthorized discharge of wastewater that resulted from of a grease blockage in the collection system, causing an overflow from a manhole located at 247 Corporate Drive, within the Colonial Village Apartments complex. On July 21, 2009, approximately 3,750 gallons of wastewater was discharged into an unnamed tributary of Timber Creek killing an estimated 40 fish.
4. The City received notice of the violations on October 30, 2009.
5. The Executive Director recognizes that by July 22, 2009, the City implemented the following corrective measures at the System:
  - a. Cleared the grease blockage from the collection system at the manhole; and
  - b. Pumped the wastewater from the unnamed creek and surrounding area and properly disposed of the wastewater and dead fish.

## 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 discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010662001, Permit Conditions No. 2.g.
3. 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.
4. An administrative penalty in the amount of Four Thousand Eight Hundred Fifty Dollars (\$4,850) 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 Four Thousand Eight Hundred Fifty Dollar (\$4,850) 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 Four Thousand Eight Hundred Fifty Dollars (\$4,850) as set forth in Section II, Paragraph 4 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 Lewisville, Docket No. 2009-1890-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 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 System operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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

3/30/2010  
Date

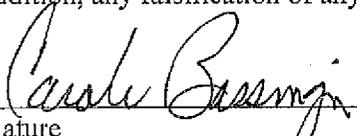
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Lewisville. I am authorized to agree to the attached Agreed Order on behalf of City of Lewisville, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

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

2/1/2010  
Date

CAROLE BASSINGER  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Lewisville

DIRECTOR, PUBLIC SERVICES  
\_\_\_\_\_  
Title

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