

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1973-MLM-E **TCEQ ID:** RN101609949 and RN102545142 **CASE NO.:** 38791

RESPONDENT NAME: City of Lubbock

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" 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 (MWD & IWD)	<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: Lubbock Southeast Water Reclamation Plant, located at the eastern terminus of East 38th Street, south of the Fort Worth and Denver Railroad bridge crossing of the North Fork Double Mountain Fork Brazos River, approximately one mile northwest of the intersection of State Highway-Loop 289 and Farm-to-Market Road 835 (Buffalo Springs Road), in the southeastern portion of Lubbock, Lubbock County ("Facility 1") and Alex Ty Cooke Generating Station, located at 3500 East Slaton Highway, 4,000 feet northwest of the intersection of Southeast Drive and East Slaton Highway, Lubbock, Lubbock County ("Facility 2")</p> <p>TYPE OF OPERATION: Domestic wastewater treatment facility and a steam electric generating station</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 these facility locations.</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 April 26, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Tom Martin, Mayor, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457 Ms. Lee Ann Dumbauld, City Manager, City of Lubbock, P.O. Box 2000, Lubbock, Texas 79457 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 23 and October 28, 2009</p> <p>Date of NOV/NOE Relating to this Case: November 13, 2009 (NOE)</p> <p>Background Facts: These were record reviews.</p> <p>WATER</p> <p>1) Failure to comply with permitted effluent limits for biochemical oxygen demand and total suspended solids for Facility 1 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010353002, Final Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to comply with permitted effluent limits for total copper for Facility 2 [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0001895000, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$66,665</p> <p>Total Deferred: \$13,333 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$53,332</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>RN101609949 Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>RN102545142 Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit a report to the Commission documenting the progress of the corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits; and</p> <p>b. Within 730 days after the effective date of this Agreed Order, submit written certification of compliance with effluent limits of TPDES Permit Nos. WQ0010353002 and WQ000189500, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0010353002



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Nov-2009	Screening	24-Nov-2009	EPA Due	5-Dec-2009
	PCW	10-Feb-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Lubbock (Southeast Water Reclamation Plant - Facility 1)		
Reg. Ent. Ref. No.	RN101609949		
Facility/Site Region	2-Lubbock	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38791	No. of Violations	1
Docket No.	2009-1973-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		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

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: An enhancement is recommended due to two final agreed orders with denial of liability, four NOV's for violations same or similar to those cited in this action, three non-similar NOV's, and 23 self-reported monthly effluent violations.

Culpability Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

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 percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 24-Nov-2009

Docket No. 2009-1973-MLM-E

PCW

Respondent City of Lubbock (Southeast Water Reclamation Plant - F)

Policy Revision 2 (September 2002)

Case ID No. 38791

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609949

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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)	27	135%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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) 181%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended due to two final agreed orders with denial of liability, four NOVs for violations same or similar to those cited in this action, three non-similar NOVs, and 23 self-reported monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 181%

Screening Date 24-Nov-2009

Docket No. 2009-1973-MLM-E

PCW

Respondent City of Lubbock (Southeast Water Reclamation Plant - Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 38791

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101609949

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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 ("TPDES") Permit No. WQ0010353002, Final Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review on September 23, 2009 and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 9 Number of violation days 183

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$22,500

Nine quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13,041,096

Violation Final Penalty Total \$63,225

This violation Final Assessed Penalty (adjusted for limits) \$63,225

Economic Benefit Worksheet

Respondent City of Lubbock (Southeast Water Reclamation Plant - Facility 1)

Case ID No. 33791

Reg. Ent. Reference No. RN101609949

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			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction	\$50,000,000	31-Aug-2008	22-May-2012	3.73	\$821,005	\$12,420,091
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete renovations at the Facility to ensure compliance with permitted effluent limitations. Date required is the first month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000,000

TOTAL

\$13,041,096

EFFLUENT VIOLATION TABLE City of Lubbock Southeast Water Reclamation Plant - Facility 1 TPDES Permit No. WQ0010353002 Docket No. 2009-1973-MLM-E						
Permitted Effluent Limits	Monitoring Period End Date					
	8/31/08	9/30/08	11/30/08	3/31/09	5/31/09	6/30/2009
Outfall 001						
BOD daily avg. conc.	c	c	c	12	11	21
Limit = 10 mg/L						
BOD daily max. conc.	c	c	c	43	42	67
Limit = 25 mg/L						
TSS daily avg. conc.	c	c	c	c	c	20
Limit = 15 mg/L						
TSS daily max. conc.	c	c	c	62	45	59
Limit = 40 mg/L						
Outfall 002						
BOD daily max. conc.	113	83	90	83	c	c
Limit = 70 mg/L						
Outfall 003						
BOD daily max. conc.	109	81	85	84	c	c
Limit = 70 mg/L						
Outfall 004						
BOD daily max. conc.	c	c	c	c	c	69
Limit = 45 mg/L						

BOD = biochemical oxygen demand
 TSS = total suspended solids
 c = compliant
 conc. = concentration

mg/L = milligrams per liter
 max. = maximum
 avg. = average

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600130736	City of Lubbock	Classification: AVERAGE	Rating: 1.78
Regulated Entity:	RN101609949	LUBBOCK SOUTHEAST WATER RECLAMATION PLANT	Classification: AVERAGE	Site Rating: 2.48
ID Number(s):	WASTEWATER	PERMIT	WQ0010353002	
	WASTEWATER	PERMIT	TPDES0106071	
	WASTEWATER	PERMIT	TX0106071	
	WASTEWATER	PERMIT	WQ0010353002	
	WASTEWATER	PERMIT	WQ0010353002	
	PRETREATMENT	PERMIT	WQ0010353002	
	PRETREATMENT	EPA ID	TX0106071000	
	WASTEWATER LICENSING	LICENSE	WQ0010353002	

Location: at the eastern terminus of East 38th Street, south of the Fort Worth and Denver Railroad bridge crossing of the North Fork Double Mountain Fork Brazos River, approximately one mile northwest of the intersection of State Highway-Loop 289 and Farm-to-Market Road 835 (Buffalo Springs Road), in the southeastern portion of the City of Lubbock in Lubbock County, Texas.

TCEQ Region: REGION 02 - LUBBOCK
 Date Compliance History Prepared: February 09, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 23, 2004 to November 23, 2009

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

Name: Lanae Foard Phone: 512-239-2554

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.
- | | |
|--|----------------------------|
| Effective Date: 01/08/2005 | ADMINORDER 2004-0082-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Effluent Limits PERMIT | |
| Description: Failure to comply with permit limits as documented by a TCEQ record review of self-reported data. | |
| | |
| Effective Date: 06/26/2006 | ADMINORDER 2005-2013-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Effluent Limits PERMIT | |
| Description: Failure to comply with the permitted effluent limits. | |
- 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 | 12/15/2004 | (344333) |
| 2 | 12/17/2004 | (388809) |
| 3 | 01/21/2005 | (388610) |
| 4 | 02/18/2005 | (388608) |
| 5 | 03/16/2005 | (426416) |
| 6 | 04/20/2005 | (426417) |

7	05/20/2005	(426418)
8	06/17/2005	(426419)
9	07/19/2005	(446706)
10	08/29/2005	(446707)
11	09/20/2005	(446708)
12	10/14/2005	(479601)
13	11/18/2005	(479602)
14	12/02/2005	(436904)
15	12/20/2005	(479604)
16	01/19/2006	(479605)
17	02/21/2006	(479598)
18	03/17/2006	(479600)
19	04/20/2006	(505284)
20	05/15/2006	(505285)
21	05/23/2006	(463645)
22	06/16/2006	(505286)
23	07/19/2006	(527556)
24	08/24/2006	(527557)
25	09/12/2006	(527558)
26	10/17/2006	(527559)
27	10/19/2006	(531059)
28	11/14/2006	(551272)
29	12/18/2006	(551273)
30	01/17/2007	(551274)
31	02/12/2007	(551271)
32	03/14/2007	(587957)
33	04/17/2007	(587958)
34	05/17/2007	(587959)
35	06/15/2007	(587960)
36	07/19/2007	(587961)
37	08/14/2007	(605275)
38	09/11/2007	(605276)
39	10/18/2007	(605277)
40	11/16/2007	(628934)
41	12/12/2007	(628935)
42	01/18/2008	(628936)
43	02/18/2008	(676562)
44	03/18/2008	(676563)
45	04/10/2008	(676564)
46	04/10/2008	(676565)
47	05/16/2008	(695061)
48	06/13/2008	(695062)
49	07/01/2008	(684570)
50	08/17/2008	(685590)
51	08/19/2008	(687429)
52	08/26/2008	(716557)
53	09/18/2008	(716558)
54	10/17/2008	(716559)
55	10/17/2008	(716560)
56	11/06/2008	(707640)
57	11/12/2008	(707651)
58	11/18/2008	(732033)
59	12/19/2008	(732034)
60	02/09/2009	(759025)
61	02/20/2009	(755398)
62	02/20/2009	(755401)
63	02/20/2009	(755402)
64	03/16/2009	(755399)
65	04/20/2009	(755400)
66	05/19/2009	(772467)
67	06/11/2009	(772468)
68	10/28/2009	(779366)
69	11/02/2009	(780643)
70	11/13/2009	(777152)

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

Date: 12/31/2004 (388810) CN600130736

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2005 (388808)	CN600130736	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2005 (426417)	CN600130736	
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 (426418)	CN600130736	
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:	05/31/2005 (426419)	CN600130736	
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:	12/31/2005 (479805)	CN600130736	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2006 (479598)	CN600130736	
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:	02/28/2006 (479600)	CN600130736	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006 (506284)	CN600130736	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2006 (505285)	CN600130736	
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:	05/25/2006 (463645)	CN600130736	
Self Report?	NO	Classification:	Moderate
Citation:	TWC Chapter 26 26.121(a)(1)		
Description:	The City of Lubbock had 52 unauthorized sewer overflows during the period of April 2005 thru March 2006.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.3(a)		
Description:	Failure to provide a fence with controlled access on lift station #37.		
Date:	10/19/2006 (531059)	CN600130736	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	02/28/2007 (587957)	CN600130736	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007 (587958)	CN600130736	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2007 (587959)	CN600130736	
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: 12/31/2007 (628936) CN600130736
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2008 (676562) CN600130736
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2008 (676564) CN600130736
 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: 04/30/2008 (695061) CN600130736
 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: 05/29/2008 (680339) CN600130736
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 30, SubChapter J 30.350(n)
 Description: Failure to have a licensed / authorized individual with an adequate level of license, certification or other authorization perform a regulated activity at the facility / operation.

Date: 06/01/2008 (686590) CN600130736
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 315, SubChapter A 315.1
 40 CFR Chapter 403, SubChapter N, PT 403.403.8(f)(2)(iv)
 Description: Failure to verify that 40 CFR 136 approved analytical methods are being used by both the City's and Industrial users' contract laboratories.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 315, SubChapter A 315.1
 40 CFR Chapter 403, SubChapter N, PT 403.403.8(f)(5)
 Description: Failure to take enforcement action, as required in 40 CFR 403.8.f.5, against an IU not using 40 CFR 136 methods. Tyco Fire Products' December 2007 self-monitoring report contained Cyanide results performed by a non-approved method; therefore, the data generated is invalid. Thus Tyco Fire Products should have been issued a notice of violation for failure to submit an acceptable report for Cyanide for the first six month reporting period of this pretreatment year.

Date: 08/20/2008 (687429) CN600130736
 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)
 2D TWC Chapter 26, SubChapter A 26.121(e)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(2)
 WQ0010353002 PERMIT
 Description: Failure to prevent Sanitary Sewer Overflows. Since the last comprehensive compliance investigation of the facility, conducted on April 24, 2006, the City of Lubbock has reported a total of seventy-nine (79) sanitary sewer overflows.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ0010353002 OP
 Description: Failure to maintain Biochemical Oxygen Demand (BOD) and / or Total Suspended Solids (TSS) below permitted allowables. During this investigation, numerous (36) occasions of the BOD and / or TSS values being above the permitted allowables for single, daily and / or weekly values at both Outfall 001 and Outfall 002 were noted. The highest BOD and TSS results documented were 103 mg / l and 82 mg / l, respectively.

Date: 08/31/2008 (716556) CN600130736
 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 (716559) CN600130736
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Description: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Failure to meet the limit for one or more permit parameter
 Date: 11/30/2008 (732034) CN600130736
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2009 (755400) CN600130736
 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: 05/31/2009 (772466) CN600130736
 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: 06/30/2009 CN600130736
 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: 10/28/2009 (779366) CN600130736
 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)
 2D TWC Chapter 26, SubChapter A 26.121(e)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Condition 2(g) PERMIT
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent the unauthorized discharge of wastewater or any other waste. Since the last comprehensive compliance investigation of the facility, conducted on July 14 through 24, 2008, the City of Lubbock has reported a total of one hundred and seven (107) sanitary sewer overflows. As none of the overflows were at the same location and for the same reason, this was identified as a noted and resolved violation, no further

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Final Effluent Limitations PERMIT
 Description: Failure to maintain BOD and TSS values below the permitted allowables.
 Date: 11/02/2009 (780643) CN600130736
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Permit Condition 2(g) PERMIT
 Description: Failure to prevent an unauthorized discharge from the collection system associated with the City of Lubbock wastewater plant (Southeast Water Reclamation Plant).

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Nov-2009	Screening	24-Nov-2009	EPA Due	
	PCW	7-Dec-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Lubbock (Alex Ty Cooke Generating Station - Facility 2)		
Reg. Ent. Ref. No.	RN102545142		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38791	No. of Violations	1
Docket No.	2009-1973-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		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**

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: An enhancement is recommended due to one final agreed order with denial of liability, one non-similar NOV, and 10 self-reported monthly effluent violations.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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 Indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 24-Nov-2009

Docket No. 2009-1973-MLM-E

PCW

Respondent City of Lubbock (Alex Ty Cooke Generating Station - Fac

Policy Revision 2 (September 2002)

Case ID No. 38791

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102545142

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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)	10	50%
	Other written NOVs	1	2%
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 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) 72%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended due to one final agreed order with denial of liability, one non-similar NOV, and 10 self-reported monthly effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 24-Nov-2009

Docket No. 2009-1973-MLM-E

PCW

Respondent City of Lubbock (Alex Ty Cooke Generating Station - Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 38791

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102545142

Media [Statute] Water Quality

Enf. Coordinator Lanae Foard

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. WQ0001895000, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review on October 28, 2009 and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate total copper to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed protective levels.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 62

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$437

Violation Final Penalty Total \$3,440

This violation Final Assessed Penalty (adjusted for limits) \$3,440

Economic Benefit Worksheet

Respondent City of Lubbock (Alex Ty Cooke Generating Station - Facility 2)
Case ID No. 38791
Reg. Ent. Reference No. RN102545142
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			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	31-Mar-2009	30-Jun-2010	1.25	\$21	\$416
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to re-route the flow from the Facility to the City of Lubbock's collection system to ensure compliance with permitted effluent limitations. Date required is the first month of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$437

EFFLUENT VIOLATION TABLE		
City of Lubbock Alex Ty Cooke Generating Station - Facility 2		
TPDES Permit No. WQ0001895000		
Docket No. 2009-1973-MLM-E		
Permitted Effluent Limits	Monitoring Period End Date	
	3/31/09	7/31/09
Total Copper daily avg. conc.	0.098	0.088
Limit = 0.07 mg/L		
Total Copper daily max. conc.	c	0.179
Limit = 0.14 mg/L		
TSS daily avg. conc	37	c
Limit = 30 mg/L		

TSS = total suspended solids
 conc. = concentration
 mg/L = milligrams per liter

max. = maximum
 c = compliant
 avg. = average

Compliance History Report

Customer/Respondent/Owner-Operator: CN600130738 City of Lubbock Classification: AVERAGE Rating: 1.78
 Regulated Entity: RN102545142 ALEX TY COOKE GENERATING STATION Classification: AVERAGE Site Rating: 0.96

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	LN0057V
AIR OPERATING PERMITS	PERMIT	9
AIR NEW SOURCE PERMITS	PERMIT	1212
AIR NEW SOURCE PERMITS	PERMIT	3807
AIR NEW SOURCE PERMITS	PERMIT	45596
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	LN0057V
AIR NEW SOURCE PERMITS	AFS NUM	483030001
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD981512205
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	37374
WASTEWATER	PERMIT	WQ0001895000
WASTEWATER	PERMIT	WQ0001895000
WASTEWATER	PERMIT	TPDES0028487
WASTEWATER	PERMIT	TX0028487
STORMWATER	PERMIT	TXR05L083
WASTEWATER LICENSING	LICENSE	WQ0001895000
UNDERGROUND INJECTION CONTROL	PERMIT	5X2600389
AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	LN0057V

Location: at 3500 East Slaton Highway, 4,000 feet northwest of the intersection of Southeast Drive and East Slaton Highway, in the City of Lubbock, Lubbock County, Texas

TCEQ Region: REGION 02 - LUBBOCK
 Date Compliance History Prepared: November 23, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 23, 2004 to November 23, 2009

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

Name: Lanae Foard Phone: 239 - 1000

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 judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 02/18/2008	ADMINORDER 2007-1021-IWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 28, SubChapter A 28.121(a)	
30 TAC Chapter 305, SubChapter F 305.125(1)	
Reqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	

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	11/24/2004	(383638)
2	12/21/2004	(442452)
3	02/22/2005	(383636)
4	03/16/2005	(383637)
5	04/19/2005	(377369)
6	04/22/2005	(421456)
7	05/17/2005	(421457)
8	06/09/2005	(395058)
9	06/22/2005	(421458)
10	07/20/2005	(442449)
11	08/19/2005	(442448)

12	08/19/2005	(442450)
13	09/23/2005	(442451)
14	10/21/2005	(471546)
15	11/21/2005	(471547)
16	12/08/2005	(471548)
17	01/11/2006	(471549)
18	02/21/2006	(471544)
19	03/16/2006	(471545)
20	04/20/2006	(500172)
21	05/23/2006	(500173)
22	07/11/2006	(466960)
23	07/20/2006	(522281)
24	07/20/2006	(522282)
25	08/08/2006	(490427)
26	08/21/2006	(522283)
27	09/25/2006	(522284)
28	10/05/2006	(514147)
29	10/10/2006	(546982)
30	11/27/2006	(546983)
31	12/27/2006	(546984)
32	01/18/2007	(579359)
33	02/20/2007	(579355)
34	03/16/2007	(579356)
35	04/20/2007	(579357)
36	05/23/2007	(579358)
37	06/21/2007	(564514)
38	07/19/2007	(602773)
39	08/21/2007	(602772)
40	08/21/2007	(602774)
41	09/20/2007	(602775)
42	10/22/2007	(621117)
43	10/30/2007	(597309)
44	11/15/2007	(621118)
45	12/20/2007	(621119)
46	01/10/2008	(612886)
47	01/22/2008	(673211)
48	02/21/2008	(673209)
49	02/25/2008	(636251)
50	03/20/2008	(673210)
51	04/21/2008	(691363)
52	05/02/2008	(653824)
53	05/21/2008	(691364)
54	07/17/2008	(685428)
55	07/21/2008	(712285)
56	07/21/2008	(712286)
57	08/21/2008	(712287)
58	09/18/2008	(712288)
59	10/08/2008	(700833)
60	10/20/2008	(712289)
61	11/21/2008	(728589)
62	12/19/2008	(728590)
63	01/13/2009	(723156)
64	01/20/2009	(751672)
65	02/20/2009	(751671)
66	03/16/2009	(769456)
67	04/16/2009	(769457)
68	05/21/2009	(769458)
69	06/23/2009	(749175)
70	11/13/2009	(780627)

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

Date:	12/31/2004	(355222)		
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:	07/31/2005	(442450)	CN600130736	
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	(471547)		

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 (522283) CN600130736

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2006 (546963)

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 (546964) CN600130736

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2007 (579365) CN600130736

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 (522281) CN600130736

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/15/2008 (612686) CN600130736

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to annually calibrate the flow measuring devices.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to utilize adequate calibration standards. Standards used for pH meter calibration were noted to be expired.
 Date: 03/31/2009 (769457)

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: 07/31/2009

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.

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 LUBBOCK
RN101609949 AND RN102545142

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1973-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Lubbock ("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 appear before the Commission and together stipulate that:

1. The City owns and operates facilities at the following locations (the "Facilities");
 - a. A domestic wastewater treatment facility located at the eastern terminus of East 38th Street, south of the Fort Worth and Denver Railroad bridge crossing of the North Fork Double Mountain Fork Brazos River, approximately one mile northwest of the intersection of State Highway-Loop 289 and Farm-to-Market Road 835 (Buffalo Springs Road), in the southeastern portion of Lubbock, Lubbock County, Texas ("Facility 1"); and
 - b. A steam electric generating station located at 3500 East Slaton Highway, 4,000 feet northwest of the intersection of Southeast Drive and East Slaton Highway in Lubbock, Lubbock County, Texas ("Facility 2").
2. The City has discharged municipal and industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.

4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 18, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixty-Six Thousand Six Hundred Sixty-Five Dollars (\$66,665) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Fifty-Three Thousand Three Hundred Thirty-Two Dollars (\$53,332) of the administrative penalty and Thirteen Thousand Three Hundred Thirty-Three Dollars (\$13,333) 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.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facilities, the City is alleged to have:

1. Failed to comply with permitted effluent limits for Facility 1, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010353002, Final Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on September 23, 2009 and as shown in the following violation table:

EFFLUENT VIOLATION TABLE						
Permitted Effluent Limits	Monitoring Period End Date					
	8/31/08	9/30/08	11/30/08	3/31/09	5/31/09	6/30/2009
Outfall 001						
BOD daily avg. conc.	c	c	c	12	11	21
Limit = 10 mg/L						
BOD daily max. conc.	c	c	c	43	42	67
Limit = 25 mg/L						
TSS daily avg. conc.	c	c	c	c	c	20
Limit = 15 mg/L						
TSS daily max. conc.	c	c	c	62	45	59
Limit = 40 mg/L						
Outfall 002						
BOD daily max. conc.	113	83	90	83	c	c
Limit = 70 mg/L						
Outfall 003						
BOD daily max. conc.	109	81	85	84	c	c
Limit = 70 mg/L						
Outfall 004						
BOD daily max. conc.	c	c	c	c	c	69
Limit = 45 mg/L						

BOD = biochemical oxygen demand mg/L = milligrams per liter
TSS = total suspended solids max. = maximum
c = compliant avg. = average
conc. = concentration

2. Failed to comply with permitted effluent limits for Facility 2, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0001895000, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on October 28, 2009 and as shown in the following violation table:

EFFLUENT VIOLATION TABLE		
Permitted Effluent Limits	Monitoring Period End Date	
	3/31/09	7/31/09
Total Copper daily avg. conc.	0.098	0.088
Limit = 0.07 mg/L		
Total Copper daily max. conc.	c	0.179
Limit = 0.14 mg/L		
TSS daily avg. conc.	37	c
Limit = 30 mg/L		

TSS = total suspended solids max. = maximum
conc. = concentration c = compliant
mg/L = milligrams per liter avg. = average

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lubbock, Docket No. 2009-1973-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. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit a report to the Commission, documenting the progress of the corrective actions that are planned and/or have been completed to ensure the effluent meets the permitted limits. The reports shall be submitted to the addresses listed in Ordering Provision No. 2.b below until written certification of compliance with Ordering Provision No. 2.b is submitted; and
 - b. Within 730 days after the effective date of this Agreed Order, submit written certification of compliance with effluent limits of TPDES Permit Nos. WQ0010353002 and WQ0001895000, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

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 Facilities 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. 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallies
For the Executive Director

4/23/2010
Date

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Lee Ann Dumbauld
Signature

2.24.10
Date

Lee Ann Dumbauld
Name (Printed or typed)
Authorized Representative of
City of Lubbock

City Manager
Title

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