

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-2088-MWD-E TCEQ ID: RN102182557 CASE NO.: 38910**

**RESPONDENT NAME: City of Colorado 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 Colorado City WWTP, located approximately 1.7 miles south-southeast of the intersection of East Central Avenue and Washington Street along State Highway 163 and 1.7 miles east of the intersection of State Highway 163 and Farm-to-Market Road 1229, Colorado City, Mitchell 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 December 7, 2009, alleging an unauthorized discharge from a nearby lift station since the City was spreading chlorine on a bridge which crossed over a creek. 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 May 10, 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> Ms. Merrilee Hupp, Enforcement Division, Enforcement Team I, MC 169, (512) 239-4490; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Carol Dakan, Mayor, City of Colorado City, P.O. Box 912, Colorado City, Texas 79512  <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> December 7, 2009</p> <p><b>Date of Investigation Relating to this Case:</b> December 8, 2009</p> <p><b>Date of NOE Relating to this Case:</b> December 09, 2009</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to prevent an unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0010077001, Permit Conditions No. 2.g.]</p>	<p><b>Total Assessed:</b> \$1,410</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 (Due) to General Revenue:</b> \$1,410</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> 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 by December 8, 2009, the City replaced the faulty fuse which led to the unauthorized discharge at the Front Street bridge lift station and applied disinfectant to the affected area.</p>

Additional ID No(s): WQ0010077001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	14-Dec-2009	Screening	29-Dec-2009	EPA Due	
	PCW	30-Dec-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Colorado City		
Reg. Ent. Ref. No.	RN102182557		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38910	No. of Violations	1
Docket No.	2009-2088-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	66.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$660
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Notes: The Respondent received eight NOVs with same or similar violations, three NOVs without same or similar violations, and was issued an Agreed Order with a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$250
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<b>Economic Benefit</b>	0.0% Enhancement	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$0	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$457	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,410
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$1,410
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,410
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$1,410
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Screening Date: 29-Dec-2009

Docket No.: 2009-2088-MWD-E

PCW

Respondent: City of Colorado City

Policy Revision 2 (September 2002)

Case ID No. 38910

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102182557

Media [Statute]: Water Quality

Enf. Coordinator: Merrilee Hupp

### 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)	8	40%
	Other written NOVs	3	6%
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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 66%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received eight NOVs with same or similar violations, three NOVs without same or similar violations, and was issued an Agreed Order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 66%

Screening Date 29-Dec-2009

Docket No. 2009-2088-MWD-E

PCW

Respondent City of Colorado City

Policy Revision 2 (September 2002)

Case ID No. 38910

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102182557

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1); 30 Tex. Admin. Code § 306.126(1); and Texas Commission on Environmental Quality Permit No. WQ0010077001, Permit Conditions No. 2.g

Violation Description

Failed to prevent an unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, approximately 30 gallons of untreated wastewater was released on December 7, 2009 at the Kimbrell and Front Street bridge lift station as a result of a faulty fuse.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	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 1

Number of violation days 1

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended, as documented during the investigation on December 8, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$250

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The discharge was stopped and disinfectant was applied to the affected area by December 8, 2009.

Violation Subtotal \$760

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,410

This violation Final Assessed Penalty (adjusted for limits) \$1,410

# Economic Benefit Worksheet

**Respondent:** City of Colorado City  
**Case ID No.:** 38910  
**Reg. Ent. Reference No.:** RN102182557  
**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
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$457	7-Dec-2009	8-Dec-2009	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Actual cost for the fuse replacement and labor and materials associated with the disinfection of the area affected by the unauthorized discharge of approximately 30 gallons of wastewater. Date required is the date of the discharge and final date is the date treatment was documented as having been completed.

### 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

\$457

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600738884 City of Colorado City Classification: AVERAGE Rating: 4.37  
Regulated Entity: RN102182557 CITY OF COLORADO CITY WWTP Classification: AVERAGE Site Rating: 16.71  
ID Number(s): WASTEWATER PERMIT WQ0010077001  
WASTEWATER LICENSING LICENSE WQ0010077001  
Location: Approx. 1.7 mi. S-SE of Int. of East Central Ave. & Washington St.  
along State Hwy. 163 & 1.7 mi. E. of the Intersec. of State Hwy. 163  
and Farm-to-Market Road 1229, Mitchell Co., Tx.  
Kimbell and Front Street bridge lift station  
TCEQ Region: REGION 03 - ABILENE  
Date Compliance History Prepared: December 28, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 28, 2004 to December 28, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Merrilee G. Hupp Phone: 239 – 4490

## 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: 11/19/2007 ADMINORDER 2007-0366-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Rqmt Prov: Permit Condition No. 2.d. PERMIT

Description: Failed to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state.

Classification: Minor

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

Rqmt Prov: Special Provision No. 7 PERMIT

Description: Failed to maintain a minimum of two feet of freeboard in the holding ponds.

Classification: Minor

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

Rqmt Prov: Operational Requirement No. 1 PERMIT

Description: Failed to adequately maintain the treatment facility.

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 08/17/2006 (509167)
- 2 12/20/2007 (612531)
- 3 05/05/2008 (638861)
- 4 03/04/2009 (723504)
- 5 03/06/2009 (737827)
- 6 03/27/2009 (740331)
- 7 06/03/2009 (747424)
- 8 06/30/2009 (759104)
- 9 12/08/2009 (782905)
- 10 12/11/2009 (785283)

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

**Date: 03/10/2006 (458245) CN600738884**

Self Report? NO Classification: Major

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

WQ0010077-001 PERMIT

Description: Failure to prevent the discharge of pollutants into waters in the State.

**Date: 08/16/2006 (509167) CN600738884**

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to any water in the state.

**Date: 06/27/2007 (561211) CN600738884**

Self Report? NO Classification: Moderate

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

WQ0010077-001 PERMIT

Description: Failure to prevent the ponding of effluent on the land application site.

Self Report? NO Classification: Moderate

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

WQ0010077-001 PERMIT

Description: Failure to maintain two feet of freeboard for the wastewater treatment ponds.

Self Report? NO Classification: Moderate

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

WQ0010077-001 PERMIT

Description: Failure to prevent the unauthorized discharge of wastewater.

Self Report? NO Classification: Moderate

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

WQ0010077-001 PERMIT

Description: Failure to submit a noncompliance notification when an unauthorized discharge occurs.

**Date: 02/06/2009 (721461) CN600738884**

Self Report? NO Classification: Moderate

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

Special Provisions PERMIT

Description: Failure to prevent excessive surface ponding during land application by irrigation.

Self Report? NO Classification: Moderate

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

Permit Conditions PERMIT

Description: Failure to prevent an unauthorized discharge to non-permitted application land during irrigation.

**Date: 03/05/2009 (723504) CN600738884**

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Permit Conditions PERMIT

Description: Failure to prevent an unauthorized discharge.

**Date: 03/06/2009 (737827) CN600738884**

Self Report? NO Classification: Moderate

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

Special Provisions PERMIT

Description: Failure to prevent excessive surface ponding during land application by irrigation.

Self Report? NO Classification: Moderate

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

Permit Conditions PERMIT

Description: Failure to prevent an unauthorized discharge to non-permitted application land during irrigation.

**Date: 03/27/2009 (740331) CN600738884**

Self Report? NO Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(5)

Operational Requirements PERMIT

Description: Failure to provide adequate safeguards in the event of an electrical power failure.

**Date: 04/10/2009 (736999) CN600738884**

Self Report? NO Classification: Minor

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

Special Provisions PERMIT

Description: Failure to prevent excessive surface ponding during land application by irrigation.

Date: **06/04/2009** (744030) CN600738884

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Permit Conditions PERMIT

Description: Failure to prevent an unauthorized discharge of wastewater.

Date: **11/20/2009** (781321) CN600738884

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Permit Conditions PERMIT

Description: Failure to prevent an unauthorized discharge of wastewater into or adjacent to waters of the State of Texas.

Date: **12/08/2009** (784382) CN600738884

Self Report? NO Classification: Minor

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

Permit Conditions PERMIT

Description: Failure to properly maintain the lift station at the old WWTP.

Self Report? NO Classification: Minor

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

Special Provisions PERMIT

Description: Failure to utilize a properly licensed chief operator.

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 COLORADO CITY  
RN102182557

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-2088-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 Colorado 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 an associated collection system approximately 1.7 miles south-southeast of the intersection of East Central Avenue and Washington Street along State Highway 163 and 1.7 miles east of the intersection of State

Highway 163 and Farm-to-Market Road 1229, with a lift station at the Kimbell and Front Street bridge, in Mitchell County, Texas (the "Facility").

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 December 8, 2009, TCEQ staff documented evidence of an unauthorized discharge of wastewater at the manhole near the Front Street bridge lift station. According to the noncompliance notification dated December 8, 2009, approximately 30 gallons of wastewater was released on December 7, 2009 as a result of a faulty fuse.
4. The City received notice of the violations on December 14, 2009.
5. The Executive Director recognizes that by December 8, 2009, the City replaced the faulty fuse which led to the unauthorized discharge at the Front Street bridge lift station and applied disinfectant to the affected area.

## 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 an 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 TCEQ Permit No. WQ0010077001, 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 One Thousand Four Hundred Ten Dollars (\$1,410) 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 One Thousand Four Hundred Ten Dollar (\$1,410) 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 One Thousand Four Hundred Ten Dollars (\$1,410) 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 Colorado City, Docket No. 2009-2088-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 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.
3. 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.
4. 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.
5. 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.
6. 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

\_\_\_\_\_  
Date 4/20/2010

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

\_\_\_\_\_  
Date February 19, 2010

\_\_\_\_\_  
Name (Printed or typed)  
Carol Sue Dakan  
Authorized Representative of  
City of Colorado 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.