

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-0038-MWD-E **TCEQ ID:** RN101916617 **CASE NO.:** 38955

**RESPONDENT NAME:** City of La Coste

<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 La Coste, located at the eastern city limits of La Coste, approximately 0.5 mile east-southeast of the intersection of Farm-to-Market Road 471 and Farm-to-Market Road 2790, 0.3 mile due south of the Southern Pacific Railroad, Medina County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</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 August 14, 2009, alleging that the creek below the La Coste wastewater treatment plant had turned black. 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 the desire to protest this action or speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 31, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Baves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Andy Keller, Mayor, City of La Coste, Post Office Box 112, La Coste, Texas 78039                      Mr. George Salzman, City Administrator, City of La Coste, Post Office Box 112, La Coste, Texas 78039  <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 of Complaint Relating to this Case:</b>                      August 14, 2009</p> <p><b>Date of Investigation Relating to this Case:</b>                      August 14, 2009</p> <p><b>Date of NOV Relating to this Case:</b>                      November 24, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>1) Failure to prevent the discharge and accumulation of sludge in the receiving stream [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010889001, Permit Conditions No. 2.d, and Operational Requirements No. 1].</p> <p>2) Failure to notify the TCEQ of a noncompliance orally within 24 hours of becoming aware of the noncompliance and to provide a complete written report of the noncompliance within five days [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010889001, Monitoring and Reporting Requirements No. 7.a].</p>	<p><b>Total Assessed:</b> \$14,990</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$1,990                      (remaining \$13,000 due in 13 monthly payments of \$1,000 each)</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> This is a Findings Order because the environment was exposed to significant levels of pollutants and the receiving stream has high aquatic life and the investigator noted fish upstream of the discharge but none downstream.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that, by August 25, 2009, the Respondent repaired the gear box, returned the clarifier to service, and cleaned up the discharge and accumulated sludge.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that noncompliance reporting is properly accomplished; and</p> <p>ii. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>

Additional ID No(s): WQ0010889001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	14-Dec-2009	Screening	6-Jan-2010	EPA Due	
	PCW	20-Jan-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of La Coste		
Reg. Ent. Ref. No.	RN101916617		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38955	No. of Violations	2
Docket No.	2010-0038-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

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

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

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

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$43
Approx. Cost of Compliance	\$18,925

\*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

**PAYABLE PENALTY**

Screening Date 6-Jan-2010

Docket No. 2010-0038-MWD-E

PCW

Respondent City of La Coste

Policy Revision 2 (September 2002)

Case ID No. 38955

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916617

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### 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)	6	30%
	Other written NOVs	2	4%
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	1	25%
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) 59%

>> 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

Enhancement recommended for having six self-reported effluent violations, two NOVs for non-similar violations, and one Agreed Order without denial language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 59%

Screening Date 6-Jan-2010

Docket No. 2010-0038-MWD-E

PCW

Respondent City of La Coste

Policy Revision 2 (September 2002)

Case ID No. 38955

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101916617

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1), (4), and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010889001, Permit Conditions No. 2.d, and Operational Requirements No. 1

Violation Description

Failed to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, the investigator documented that one final clarifier had an inoperable sludge rake motor and that sludge from the clarifier was flowing over the weirs and the chlorine contact chamber and into the receiving stream. Grab samples taken at the outfall indicated a carbonaceous biochemical oxygen demand level of 124 milligrams per liter ("mg/L") with a single grab permitted limit of 35 mg/L and a total suspended solids level of 244 mg/L with a single grab permitted limit of 60 mg/L.

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 which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 11 Number of violation days

daily	
weekly	x
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Two weekly events are recommended from the investigation date, August 14, 2009, to the date the cleanup was finished, August 25, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$2,600

Before NOV NOV to EDRP/ Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The City returned to compliance on August 25, 2009.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$13,400

This violation Final Assessed Penalty (adjusted for limits) \$13,400

# Economic Benefit Worksheet

**Respondent** City of La Costa  
**Case ID No.** 38955  
**Reg. Ent. Reference No.** RN101916617  
**Media** Water Quality  
**Violation No.** 1

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				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)	\$18,625	14-Aug-2009	25-Aug-2009	0.03	\$28	n/a	\$28

Notes for DELAYED costs: Actual cost to repair the gear box, return the clarifier to service, and to clean up the discharge and accumulated sludge. Date required is the investigation date and the final date is the date cleanup and repairs were 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

\$18,625

TOTAL

\$28

Screening Date 6-Jan-2010

Docket No. 2010-0038-MWD-E

PCW

Respondent City of La Costa

Policy Revision 2 (September 2002)

Case ID No. 38955

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101916617

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0010889001, Monitoring and Reporting Requirements No. 7.a

Violation Description

Failed to notify the TCEQ of a noncompliance orally within 24 hours of becoming aware of the noncompliance and to provide a complete written report of the noncompliance within five days. Specifically, the noncompliance occurred on August 14, 2009 and no notification was submitted by the City.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Release	Major	Moderate	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
	x			10%
100% of the rule requirement was not met.				

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 145 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

	0.0% Reduction	\$0
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x (mark with x)	

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$1,590

This violation Final Assessed Penalty (adjusted for limits) \$1,590

## Economic Benefit Worksheet

**Respondent** City of La Costa  
**Case ID No.** 38955  
**Reg. Ent. Reference No.** RN101916617  
**Media** Water Quality  
**Violation No.** 2

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	14-Aug-2009	20-Aug-2010	1.02	\$13	n/a	\$13
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	14-Aug-2009	20-Aug-2010	1.02	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to update operational guidance and conduct employee training to ensure that noncompliance reporting is properly accomplished and to submit a noncompliance report. Dates required are the date of the investigation and the final dates are 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

\$300

**TOTAL**

\$15

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600655179	City of La Coste	Classification: AVERAGE	Rating: 2.49
Regulated Entity:	RN101916617	CITY OF LA COSTE	Classification: AVERAGE	Site Rating: 4.46

ID Number(s):	WASTEWATER	PERMIT	WQ0010889001
	WASTEWATER	PERMIT	TPDES0107743
	WASTEWATER	PERMIT	TX0107743
	WASTEWATER LICENSING	LICENSE	WQ0010889001

Location: LOCATED AT THE EASTERN CITY LIMITS OF THE CITY OF LA COSTE, APPROXIMATELY 0.5 MILE EAST-SOUTHEAST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 471 AND FARM-TO-MARKET ROAD 2790, 0.3 MILE DUE SOUTH OF THE SOUTHERN PACIFIC RAILROAD, MEDINA COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO  
 Date Compliance History Prepared: January 06, 2010  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: January 06, 2005 to January 06, 2010

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

Name: Samuel Short Phone: (512) 239-5363

### 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: 04/14/2008  | ADMINORDER 2005-0284-MWD-E |
| Classification: Major   |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)<br>30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: Effluent Limits & Monitor Requirements 1 PERMIT  |                            |
| Description: Failed to comply with the permitted effluent limit for ammonia nitrogen at Outfall 001, which resulted in a fish kill on Polecat Creek in the San Antonio River Basin. |                            |
| Classification: Major   |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(c)   |                            |
| Description: Failure to obtain Commission authorization prior to discharging industrial waste into or adjacent to the waters of the state.  |                            |
| Classification: Moderate  |                            |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)<br>30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: Effluent Limit. & Monitor. Require. 6 PERMIT   |                            |
| Description: Failed to comply with the permitted effluent limits for dissolved oxygen at Outfall 001 during March 2004.   |                            |
- 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 | 01/06/2005 | (339592) |
| 2 | 01/24/2005 | (388923) |
| 3 | 01/24/2005 | (388924) |
| 4 | 02/28/2005 | (428517) |

5	06/03/2005	(426518)
6	06/20/2005	(426519)
7	06/20/2005	(426520)
8	07/26/2005	(446787)
9	08/25/2005	(446788)
10	09/22/2005	(446789)
11	10/19/2005	(490536)
12	12/07/2005	(490537)
13	12/30/2005	(490538)
14	03/08/2006	(490535)
15	03/08/2006	(490539)
16	05/23/2006	(505370)
17	05/23/2006	(505371)
18	05/23/2006	(505372)
19	05/25/2006	(461803)
20	07/03/2006	(527656)
21	08/29/2006	(527659)
22	10/11/2006	(551321)
23	10/11/2006	(551322)
24	10/20/2006	(551323)
25	12/18/2006	(551324)
26	01/18/2007	(588057)
27	01/22/2007	(588058)
28	03/07/2007	(588053)
29	04/09/2007	(588054)
30	04/27/2007	(588055)
31	05/31/2007	(561717)
32	06/11/2007	(588056)
33	07/31/2007	(605314)
34	08/07/2007	(605313)
35	09/04/2007	(605315)
36	10/02/2007	(629179)
37	10/22/2007	(629180)
38	11/20/2007	(629181)
39	12/27/2007	(629182)
40	01/24/2008	(676628)
41	02/15/2008	(612313)
42	02/25/2008	(676627)
43	03/25/2008	(695166)
44	06/20/2008	(716669)
45	06/24/2008	(716670)
46	08/05/2008	(716671)
47	08/29/2008	(716672)
48	09/22/2008	(716673)
49	09/30/2008	(732114)
50	10/23/2008	(732115)
51	12/01/2008	(732116)
52	01/12/2009	(755480)
53	03/13/2009	(738255)
54	04/01/2009	(755459)
55	04/01/2009	(755461)
56	06/16/2009	(742157)
57	12/07/2009	(776994)

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

Date:	12/31/2005	(490539)	CN600655179
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	(461803)	CN600655179
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to conduct the annual calibration on the potable water backflow prevention device.		

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)(B)		
Description:	Failure to submit the 2005 annual sludge report.		
Date:	11/30/2006	(588057)	CN600655179
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	(588055)	CN600655179
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/12/2009	(742157)	CN600655179
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to conduct the annual testing on the RPZ backflow preventer on the potable water supply line to the plant.		
Date:	07/31/2009		CN600655179
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2009		CN600655179
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2009		CN600655179
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 LA COSTE  
RN101916617

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2010-0038-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 La Coste ("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 at the eastern city limits of La Coste, approximately 0.5 mile east-southeast of the intersection of Farm-to-Market Road 471 and Farm-to-Market Road 2790, 0.3 mile due south of the Southern Pacific Railroad in Medina 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 August 14, 2009, TCEQ staff documented that one final clarifier had an inoperable sludge rake motor and that sludge from the clarifier was flowing over the weirs and the chlorine contact chamber and into the receiving stream. Grab samples taken at the outfall indicated a carbonaceous biochemical oxygen demand level of 124 milligrams per liter ("mg/L") with a single grab permitted limit of 35 mg/L and a total suspended solids level of 244 mg/L with a single grab permitted limit of 60 mg/L.
4. During on investigation on August 14, 2009, TCEQ staff documented that the City did not notify the TCEQ of the discharge and accumulation of sludge in the receiving stream that occurred on August 14, 2009.
5. The City received notice of the violations on December 11, 2009.
6. The Executive Director recognizes that, by August 25, 2009, the City repaired the gear box, returned the clarifier to service, and cleaned up the discharge and accumulated sludge.

## 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 discharge and accumulation of sludge in the receiving stream, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), (4), and (5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010889001, Permit Conditions No. 2.d, and Operational Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the City failed to notify the TCEQ of a noncompliance orally within 24 hours of becoming aware of the noncompliance and to provide a complete written report of the noncompliance within five days, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010889001, Monitoring and Reporting Requirements No. 7.a.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Fourteen Thousand Nine Hundred Ninety Dollars (\$14,990) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The City has paid One Thousand Nine Hundred

Ninety Dollars (\$1,990) of the administrative penalty. The remaining amount of Thirteen Thousand Dollars (\$13,000) of the administrative penalty shall be payable in 13 monthly payments of One Thousand Dollars (\$1,000) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of City to meet the payment schedule of this Agreed Order constitutes the failure by City to timely and satisfactorily comply with all the terms of this Agreed Order.

### 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 Fourteen Thousand Nine Hundred Ninety Dollars (\$14,990) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of La Coste, Docket No. 2010-0038-MWD-E" to:

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

2. The City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that noncompliance reporting is properly accomplished, in accordance with TPDES Permit No. WQ0010889001, Monitoring and Reporting Requirements No. 7.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive

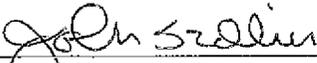
Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

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

\_\_\_\_\_  
Date 4/29/2010

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of La Coste. I am authorized to agree to the attached Agreed Order on behalf of the City of La Coste, 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 La Coste 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 3-5-10

Andy Keller  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of La Coste

\_\_\_\_\_  
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.