

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1206-MWD-E **TCEQ ID:** RN101917722 **CASE NO.:** 38050

**RESPONDENT NAME:** City of Leander

<b>ORDER TYPE:</b>		
<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	
<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 Leander WWTP, located at 10201 Ranch-to-Market Road 2243, approximately 4,000 feet east of the intersection of United States Highway 183 and Ranch-to-Market Road 2243 in Williamson County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the BD and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 21, 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. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Anthony Johnson, City Manager, City of Leander, 200 West Willis Street, Leander, Texas 78641  <b>Respondent's Attorney:</b> Mr. James Parker, Knight &amp; Partners, Executive Office Terrace, 223 West Anderson Lane, Suite A-105, Austin, Texas 78752</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" 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> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 12 and September 14, 2009</p> <p><b>Date of NOE Relating to this Case:</b> July 24 and September 30, 2009</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the period of June 2008 through June 2009 the Respondent reported six sanitary sewer system overflows [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012644001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121].</p> <p>2) Failure to prevent the unauthorized discharge of wastewater from the collection system. Specifically, 75,000 gallons of wastewater was discharged from Lift Station No. 11, which is located approximately 50 feet from an un-named tributary of Blockhouse Creek which thence flows to Blockhouse Creek and thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The discharge flowed down gradient into an un-named creek on September 12, 2009 due to inflow and infiltration from a 5-inch rainfall within an 18-hour period [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012644001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121].</p> <p>3) Failure to notify the TCEQ within 24 hours of an unauthorized discharge of</p>	<p><b>Total Assessed:</b> \$13,490</p> <p><b>Total Deferred:</b> \$2,698  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$10,792</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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent implemented corrective measure in the System:</p> <p>a. On July 11, 2008, at 3000 South Bagdad road, the grease block was jetted and pooled sewage was vacuumed up, the remainder was diluted with fresh water and vacuumed.</p> <p>b. On September 28, 2008, at United States Highway 183 and Bates Drive, spill soaked into ground, flushed area with chlorinated water. The damaged pipe was replaced and slip lined under United Stated Highway 183.</p> <p>c. On December 18, 2008, at County Glenn and Bagdad Road, the Respondent replaced the fuse and vacuumed up the wastewater and spread lime over the spill area. A spare fuse is kept at a control panel and one spare pump at lift station will have two rebuilt ones in lift station.</p> <p>d. On February 24, 2009, at Cactus Valley and Erika Ann, wastewater was vacuumed out of excavation. Wastewater line evacuation was stopped and a manhole was tied into Interceptor 4 line.</p> <p>e. On April 13, 2009, at 2206 First View, a vac truck removed wastewater and a force main was repaired.</p> <p>f. On April 14, 2009, at 1906 Killarney, jetted and cleaned line, removed asphalt and grease from the line, covered spill with lime, wastewater was flushed with potable water and removed by a vac truck.</p> <p>g. On September 12, 2009, at Lift Station No. 11 at Calistoga Drive and Downridge Drive, the manhole upstream of lift station was pumped down to mitigate flow. Rainfall washed the affected area.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, conduct smoke testing</p>

<p>wastewater. Specifically, the unauthorized discharge that occurred on September 12, 2009 was not reported to the TCEQ until September 14, 2009 [TPDES Permit No. WQ0012644001, Monitoring and Reporting Requirements No. 7.a. and 30 TEX. ADMIN. CODE § 305.125(9)].</p>		<p>and visual inspection of the collection system upstream of the lift station and repair the collection system as needed;</p> <p>b. Within 60 days after the effective date of this Agreed Order, conduct an engineering study of the lift station and modify the lift station so that the two pumps are run in the automatic mode; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. and b.</p>
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Additional ID No(s): WQ0012644001





# Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	27-Jul-2009	Screening	30-Jul-2009	EPA Due	
	PCW	30-Jul-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Leander		
Reg. Ent. Ref. No.	RN101917722		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38050	No. of Violations	1
Docket No.	2009-1206-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		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: The Respondent was issued one NOV with the same/similar type of violations, one NOV without the same/similar type of violations, and self-reported 12 months of 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 30-Jul-2009

Docket No. 2009-1206-MWD-E

PCW

Respondent City of Leander

Policy Revision 2 (September 2002)

Case ID No. 38050

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

### 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)	13	65%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 67%

>> 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 was issued one NOV with the same/similar type of violations, one NOV without the same/similar type of violations, and self-reported 12 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 67%

Screening Date 30-Jul-2009

Docket No. 2009-1208-MWD-E

PCW

Respondent City of Leander

Policy Revision 2 (September 2002)

Case ID No. 38050

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012644001, Permit Conditions No. 2.g., 30 Tex. Admin. Code § 305.125(4) and (5), and Tex. Water Code § 26.121

Violation Description

Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the period of June 2008 through June 2009 the Respondent reported six sanitary sewer system overflows as shown in the attached 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

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6 Number of violation days 6

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

Violation Base Penalty \$8,000

Six single events are recommended, one for each discharge.

Good Faith Efforts to Comply

25.0% Reduction

\$1,500

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

Notes

The Respondent achieved compliance by April 14, 2009 for this violation.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$342

Violation Final Penalty Total \$8,520

This violation Final Assessed Penalty (adjusted for limits) \$8,520

## Economic Benefit Worksheet

**Respondent** City of Leander  
**Case ID No.** 38050  
**Reg. Ent. Reference No.** RN101917722  
**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				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)	\$9,000	11-Jul-2008	14-Apr-2009	0.78	\$342	n/a	\$342

Notes for DELAYED costs

Estimated cost to repair/replace any damaged components of the collection system and to chemically treat and clean up the unauthorized discharges. Date Required is the date of the first noncompliance. Final Date is the compliance date.

**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

\$9,000

TOTAL

\$342



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	5-Oct-2009	Screening	8-Oct-2009	EPA Due	
	PCW	8-Oct-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Leander		
Reg. Ent. Ref. No.	RN101917722		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38050	No. of Violations	2
Docket No.	2009-1206-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 3
Maximum	\$10,000		

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$3,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>			
<b>Compliance History</b>	67.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,345
Notes	The Respondent was issued one NOV with the same/similar type of violations, one NOV without the same/similar type of violations, and self-reported 12 months of effluent violations.		
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b>	\$0
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b>	\$875
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$280	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$10,200		
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$4,970
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	
Notes	Reduces or enhances the Final Subtotal by the indicated percentage.		
		<b>Final Penalty Amount</b>	\$4,970
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$4,970
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$994
Notes	Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
		<b>Final Assessed Penalty</b>	\$3,976

Screening Date 8-Oct-2009

Docket No. 2009-1206-MWD-E

PCW

Respondent City of Leander

Policy Revision 2 (September 2002)

Case ID No. 38050

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

### 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)	13	65%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent was issued one NOV with the same/similar type of violations, one NOV without the same/similar type of violations, and self-reported 12 months of effluent violations.

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

Screening Date 8-Oct-2009

Docket No. 2009-1206-MWD-E

PCW

Respondent City of Leander

Case ID No. 38050

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012644001, Permit Conditions No. 2.g., 30 Tex. Admin. Code § 305.125(4) and (5), and Tex. Water Code § 26.121

Violation Description Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, 75,000 gallons of wastewater was discharged from Lift Station No. 11, which is located approximately 50 feet from an un-named tributary of Blockhouse Creek which thence flows to Blockhouse Creek and thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The discharge flowed down gradient into the un-named creek on September 12, 2009 due to inflow and infiltration from a 5-inch rainfall within an 18-hour period.

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 Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 3

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended from the date of the discharge, September 12, 2009, to the date when immediate corrective action was taken, September 12, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent took immediate corrective action by September 12, 2009 for this violation.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$280

Violation Final Penalty Total \$3,550

This violation Final Assessed Penalty (adjusted for limits) \$3,550

## Economic Benefit Worksheet

**Respondent** City of Leander  
**Case ID No.** 38050  
**Reg. Ent. Reference No.** RN101917722  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	12-Sep-2009	1-Jul-2010	0.80	\$13	\$267	\$280
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)	\$5,000	12-Sep-2009	12-Sep-2009	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to pump the manhole upstream of lift station to mitigate flow, to conduct an engineering study of the lift station and to repair/replace any damaged components of the collection system as needed. Date Required is the date of the unauthorized discharge. Final Date is the date immediate action was taken to mitigate the discharge/clean the affected area; and 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

\$10,000

TOTAL

\$280

Screening Date 8-Oct-2009

Docket No. 2009-1206-MWD-E

PCW

Respondent City of Leander

Case ID No. 38050

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917722

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0012644001, Monitoring and Reporting Requirements No. 7.a. and 30 Tex. Admin. Code § 305.125(9)

Violation Description Failed to notify the TCEQ within 24 hours of an unauthorized discharge of wastewater. Specifically, the unauthorized discharge that occurred on September 12, 2009 was not reported to the TCEQ until September 14, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$8,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

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 Respondent achieved compliance by September 14, 2009 for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$1,420

This violation Final Assessed Penalty (adjusted for limits) \$1,420

## Economic Benefit Worksheet

**Respondent** City of Leander  
**Case ID No.** 38050  
**Reg. Ent. Reference No.** RN101917722  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$200	13-Sep-2009	14-Sep-2009	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to notify the TCEQ within 24 hours of an unauthorized discharge. Date required is the date the report was due date and the final date is the compliance date.

**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

\$200

TOTAL

\$0

City of Leander  
Docket No. 2009-1206-MWD-E; RN101917722  
TPDES Permit No. WQ0012644001; Case No. 38050

<b>UNAUTHORIZED DISCHARGE TABLE</b>			
<b>Date</b>	<b>Location</b>	<b>Amount discharge (gallons)</b>	<b>Description</b>
07/11/2008	3000 South Bagdad Road	250	Grease blockage cause a manhole to overflow.
09/28/2008	United States Highway 183 and Bates Drive	500	Backflow from a collapsed sewer main.
12/18/2008	County Glenn and Bagdad Road	3,500	Lift station overflow due to a blown fuse in the control panel.
02/24/2009	Cactus Valley and Erika Ann	5,000	Manhole overflowed due to contractor damage to manhole with a rocksaw.
04/13/2009	2206 First View	150	Wastewater spill from ruptured 2-inch force main.
04/14/2009	1906 Killarney	No amount reported	Home owners cleanout was overflowing due to block in sewer main.



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600646012	City of Leander	Classification: AVERAGE	Rating: 2.70
Regulated Entity:	RN101917722	CITY OF LEANDER WWTP	Classification: AVERAGE	Site Rating: 0.8
ID Number(s):	WASTEWATER	PERMIT		WQ0012644001
	WASTEWATER	PERMIT		TPDES0092151
	WASTEWATER	PERMIT		TX0092151
	WASTEWATER LICENSING	LICENSE		WQ0012644001
Location:	LOCATED AT 10201 RANCH-TO-MARKET ROAD 2243, APPROXIMATELY 4,000 FEET EAST OF THE INTERSECTION OF UNITED STATES HIGHWAY 183 AND RANCH-TO-MARKET ROAD 2243 IN WILLIAMSON COUNTY, TEXAS			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	July 29, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 29, 2004 to July 29, 2009			

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

## 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: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1	08/26/2004	(362097)
2	09/21/2004	(362098)
3	10/21/2004	(362099)
4	11/19/2004	(362100)
5	12/21/2004	(387527)
6	02/22/2005	(387525)
7	03/21/2005	(387526)
8	04/19/2005	(425242)
9	05/23/2005	(425243)
10	06/21/2005	(425244)
11	07/20/2005	(445834)

12	08/18/2005	(445837)
13	08/19/2005	(445835)
14	09/21/2005	(445836)
15	10/20/2005	(477785)
16	11/21/2005	(477786)
17	12/21/2005	(477787)
18	02/21/2006	(477782)
19	02/21/2006	(477784)
20	03/21/2006	(477783)
21	04/21/2006	(504254)
22	05/22/2006	(504255)
23	06/19/2006	(504256)
24	08/15/2006	(526600)
25	09/18/2006	(625927)
26	09/27/2006	(531052)
27	10/10/2006	(338492)
28	10/10/2006	(396923)
29	10/20/2006	(625929)
30	11/27/2006	(625931)
31	12/21/2006	(625933)
32	01/22/2007	(625935)
33	02/21/2007	(625920)
34	03/22/2007	(625921)
35	04/20/2007	(625922)
36	05/22/2007	(625923)
37	05/24/2007	(517949)
38	06/21/2007	(625924)
39	07/19/2007	(625925)
40	08/23/2007	(625926)
41	09/18/2007	(625928)
42	10/22/2007	(625930)
43	11/05/2007	(599617)
44	11/26/2007	(625932)
45	11/30/2007	(625936)
46	12/20/2007	(625934)
47	02/21/2008	(675802)
48	02/21/2008	(675803)
49	02/21/2008	(675804)
50	03/26/2008	(694145)
51	04/23/2008	(694146)
52	05/21/2008	(694147)
53	06/20/2008	(715542)
54	08/15/2008	(715543)
55	09/22/2008	(715544)
56	10/20/2008	(731258)
57	11/21/2008	(731259)
58	12/22/2008	(731260)
59	02/24/2009	(754556)
60	02/24/2009	(754557)
61	07/22/2009	(746258)

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

Date: 07/31/2004

(362097)

CN600646012

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:** 08/31/2004 (362098) CN600646012  
**Self Report?** YES **Classification:** Moderate

**Citation:** 30 TAC Chapter 305, SubChapter F 305.125(1)  
**Description:** TWC Chapter 26 26.121(a)  
 Failure to meet the limit for one or more permit parameter  
**Date:** 01/31/2005 (387525) CN600646012  
**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 (425243) CN600646012  
**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:** 07/27/2005 (396923) CN600646012  
**Self Report?** NO **Classification:** Minor

**Citation:** 30 TAC Chapter 305, SubChapter F 305.125(1)  
**Description:** The field grab sample collected during the investigation did not meet permit limits of 1.0 mg/L. the sample was 0.89.  
**Self Report?** NO **Classification:** Minor

**Citation:** 30 TAC Chapter 305, SubChapter F 305.125(1)  
**Description:** The City of Leander self-reported effluent violations for June 2004. The exceedance was for the 30-day phosphorus limit of 1.0 mg/L. The reported value was 1.68. A self reported violation was also reported in August 2004 for the 7 day average for ammonia-nitrogen limit of 5.0 mg/l and for the daily maximum of 10.0 m  
**Self Report?** NO **Classification:** Minor

**Citation:** 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)  
 TWC Chapter 26 26.121(a)(1)  
 TWC Chapter 26 26.121(a)(2)  
 TWC Chapter 26 26.121(a)(3)  
 TWC Chapter 26 26.121(b)  
 TWC Chapter 26 26.121(c)  
 TWC Chapter 26 26.121(d)  
 TWC Chapter 26 26.121(e)  
**Description:** There have been seven unauthorized discharges from the collection system since the last CCI.  
**Date:** 09/30/2005 (477785) CN600646012  
**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 (477783) CN600646012  
**Self Report?** YES **Classification:** Moderate

**Citation:** 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
**Description:** Failure to meet the limit for one or more permit parameter  
**Date:** 06/30/2006 (477784) CN600646012

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 (526600)	CN600646012	
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	08/31/2006 (625927)	CN600646012	
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	09/27/2006 (531052)	CN600646012	
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		
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	12/31/2006 (625935)	CN600646012	
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	05/31/2007 (625924)	CN600646012	
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	10/31/2007 (625932)	CN600646012	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

- F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF LEANDER  
RN101917722**

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

## **AGREED ORDER DOCKET NO. 2009-1206-MWD-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 Leander ("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, represented by Mr. James Parker of the law firm of Knight & Partners, appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility and associated collection system located at 10201 Ranch-to-Market Road 2243, approximately 4,000 feet east of the intersection of United States Highway 183 and Ranch-to-Market Road 2243 in Williamson 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. 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 notices of the violations alleged in Section II ("Allegations") on or about July 29, 2009 and October 5, 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 Thirteen Thousand Four Hundred Ninety Dollars (\$13,490) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid Ten Thousand Seven Hundred Ninety-Two Dollars (\$10,792) of the administrative penalty and Two Thousand Six Hundred Ninety-Eight Dollars (\$2,698) 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 recognizes that the City implemented corrective measures in the Facility as shown in the table below:

<b>CORRECTIVE ACTION TABLE</b>		
Date	Location	Corrective Action Taken
07/11/2008	3000 South Bagdad Road	The grease block was jetted and pooled sewage was vacuumed up, the remainder was diluted with fresh water and vacuumed.
09/28/2008	United States Highway 183 and Bates Drive	Spill soaked into ground, flushed area with chlorinated water. The damaged pipe was replaced and slip lined under United States Highway 183.
12/18/2008	County Glenn and Bagdad Road	Replaced the fuse and vacuumed up the wastewater and spread lime over the spill area. A spare fuse is kept at control panel, one spare pump at lift station will have two rebuilt ones in lift station.
02/24/2009	Cactus Valley and Erika Ann	Wastewater was vacuumed out of excavation. Wastewater line excavation was stopped, manhole was tied into interceptor 4 line.
04/13/2009	2206 First View	Vac truck removed wastewater and force main was repaired.
04/14/2009	1906 Killarney	Jetted and cleaned line, removed asphalt and grease from the line, covered spill with lime, wastewater was flushed with potable water and removed by vac truck.
09/12/2009	Lift Station No. 11 at Calistoga Drive and Downridge Drive	Manhole upstream of lift station was pumped down to mitigate flow. Rainfall washed affected area.

10. The Executive Director also recognizes that the City notified the TCEQ on September 14, 2009 of the unauthorized discharge that occurred on September 12, 2009.
11. 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.
12. 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.
13. 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 Facility, the City is alleged to have:

1. Failed to prevent the unauthorized discharge of wastewater from the collection system, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012644001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121, as documented during an investigation conducted on June 12, 2009. Specifically, during the period of June 2008 through June 2009 the City reported six sanitary sewer system overflows as shown in the table below:

UNAUTHORIZED DISCHARGE TABLE			
Date	Location	Amount discharge (gallons)	Description
07/11/2008	3000 South Bagdad Road	250	Grease blockage cause a manhole to overflow.
09/28/2008	United States Highway 183 and Bates Drive	500	Backflow from a collapsed sewer main.
12/18/2008	County Glenn and Bagdad Road	3,500	Lift station overflow due to a blown fuse in the control panel.
02/24/2009	Cactus Valley and Erika Ann	5,000	Manhole overflowed due to contractor damage to manhole with a rocksaw.
04/13/2009	2206 First View	150	Wastewater spill from ruptured 2 inch force main.
04/14/2009	1906 Killarney	No amount reported	Home owners cleanout was overflowing due to block in sewer main.

2. Failed to prevent the unauthorized discharge of wastewater from the collection system, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012644001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121, as documented during an investigation conducted on September 14, 2009. Specifically, 75,000 gallons of wastewater was discharged from Lift Station No. 11, which is located approximately 50 feet from an un-named tributary of Blockhouse Creek which thence flows to Blockhouse Creek and thence to Brushy Creek in Segment No. 1244 of the Brazos River Basin. The discharge flowed down gradient into an un-named creek on September 12, 2009 due to inflow and infiltration from a 5-inch rainfall within an 18-hour period.
3. Failed to notify the TCEQ within 24 hours of an unauthorized discharge of wastewater, in violation of TPDES Permit No. WQ0012644001, Monitoring and Reporting Requirements No. 7.a. and 30 TEX. ADMIN. CODE § 305.125(9), as documented during an investigation conducted on September 14, 2009. Specifically, the unauthorized discharge that occurred on September 12, 2009 was not reported to the TCEQ until September 14, 2009.

### 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 Leander, Docket No. 2009-1206-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. It is further ordered that the City shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, conduct smoke testing and visual inspection of the collection system upstream of the lift station and repair the collection system as needed;
  - b. Within 60 days after the effective date of this Agreed Order, conduct an engineering study of the lift station and modify the lift station so that the two pumps are run in the automatic mode; and

- c. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 South Interstate Highway 35, Suite 100  
Austin, Texas 78704-5700

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. 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

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

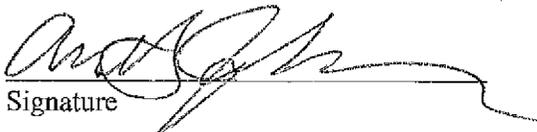
5/24/2010  
\_\_\_\_\_  
Date

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.

  
\_\_\_\_\_  
Signature

01/25/10  
\_\_\_\_\_  
Date

Anthony Johnson  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Leander

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.

