Executive Summary – Enforcement Matter – Case No. 41687
City of Harker Heights
RN101920395
Docket No. 2011-0810-MWD-E

Order Type:
Findings Agreed Order
Findings Order Justification:
People or environmental receptors have been exposed to pollutants which exceed levels that are protective.
Media:
MWD
Small Business:
No
Location(s) Where Violation(s) Occurred:
City of Harker Heights, located approximately 3,000 feet northwest of the intersection of United States ("U.S.") Business 190 and Farm-to-Market ("FM") Road 3219, approximately 1/4 mile north of U.S. Business 190 on the south bank of Nolan Creek which includes a collection system with manholes located north of the intersection of FM Road 2410 and Granite Trail, Bell County
Type of Operation:
Wastewater treatment plant
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: August 26, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $9,700
Amount Deferred for Expedited Settlement: $0
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $9,700
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Average
Site/RN - Average
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41687
City of Harker Heights
RN101920395
Docket No. 2011-0810-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 7, 2011
Date(s) of NOE(s): May 11, 2011

Violation Information

Failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state. Specifically, a grease blockage in the collection system located north of the intersection of FM Road 2410 and Granite Trail caused approximately 28,800 gallons of wastewater to discharge from two manholes and a septic tank. The discharge flowed directly into an unnamed tributary of Stillhouse Hollow Lake, which resulted in a fishkill of approximately 430 fish [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System Permit No. WQ0010155001, Permit Conditions No. 2.g.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

a. By March 7, 2011:

i. Jetted and televised the collection lines and removed the grease blockage;

ii. Removed and properly disposed of wastewater and dead fish from the unnamed tributary; and

iii. Cleaned and disinfected the stream banks.

b. By March 9, 2011, the landowner removed the septic tank from the collection system.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Executive Summary – Enforcement Matter – Case No. 41687
City of Harker Heights
RN101920395
Docket No. 2011-0810-MWD-E

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Michael M. Aycock, Mayor, City of Harker Heights, 305 Miller Crossing, Harker Heights, Texas 76548
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	16-May-2011				
PCW	19-May-2011	Screening	19-May-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Harker Heights		
Reg. Ent. Ref. No.	RN101920395		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41687	No. of Violations	1
Docket No.	2011-0810-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$10,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 22.0% Enhancement — *Subtotals 2, 3, & 7* **$2,200**

Notes: Enhancement for three months of self-reported effluent violations, one NOV for same/similar violation, and one NOV for dissimilar violation.

Culpability No 0.0% Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$2,500**

Economic Benefit 0.0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts $2
Approx. Cost of Compliance $8,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$9,700**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% — *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$9,700**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$9,700**

DEFERRAL 0.0% Reduction — *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$9,700**

Screening Date 19-May-2011 **Docket No.** 2011-0810-MWD-E **PCW**

Respondent City of Harker Heights

Policy Revision 2 (September 2002)

Case ID No. 41687

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920395

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three months of self-reported effluent violations, one NOV for same/similar violation, and one NOV for dissimilar violation.

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

Screening Date 19-May-2011 **Docket No.** 2011-0810-MWD-E **PCW**

Respondent City of Harker Heights *Policy Revision 2 (September 2002)*

Case ID No. 41687 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101920395

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010155001, Permit Conditions No. 2.g.

Violation Description Failed to prevent an unauthorized discharge of wastewater from a collection system into or adjacent to water in the state, as documented during the investigation conducted on March 7, 2011. Specifically, a grease blockage in the collection system located north of the intersection of Farm-to-Market Road 2410 and Granite Trail caused approximately 28,800 gallons of wastewater to discharge from two manholes and a septic tank. The discharge flowed directly into an unnamed tributary of Stillhouse Hollow Lake, which resulted in a fishkill of approximately 430 fish.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual	x		
	Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment have been exposed to 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 — 2 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

Two daily events are recommended from the date of discharge (March 5, 2011) to the date of compliance (March 7, 2011).

Good Faith Efforts to Comply

25.0% Reduction — $2,500

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

Notes: The Respondent achieved compliance on March 7, 2011.

Violation Subtotal $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $9,700

This violation Final Assessed Penalty (adjusted for limits) $9,700

Economic Benefit Worksheet

Respondent City of Harker Heights
Case ID No. 41687
Reg. Ent. Reference No. RN101920395
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	$5,000	5-Mar-2011	7-Mar-2011	0.01	$1	n/a	$1
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$3,000	5-Mar-2011	7-Mar-2011	0.01	$1	n/a	$1

Notes for DELAYED costs Estimated cost to jet and televise the collection lines and remove the grease blockage, remove and properly dispose of the wastewater and dead fish from the unnamed tributary, and clean and disinfect the stream banks. Date required is the date of the unauthorized discharge. Final date is the date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance $8,000

TOTAL $2

Compliance History

Customer/Respondent/Owner-Operator:	CN600509277	City of Harker Heights	Classification: AVERAGE	Rating: 2.28
Regulated Entity:	RN101920395	CITY OF HARKER HEIGHTS	Classification: AVERAGE	Site Rating: 0.24
ID Number(s):	WASTEWATER		PERMIT	WQ0010155001
	WASTEWATER		EPA ID	TX0024473
	WASTEWATER LICENSING		LICENSE	WQ0010155001

Location: Located approximately 3,000 feet northwest of the intersection of U.S. Business 190 and Farm-to-Market Road 3219, approximately 1/4 mile north of U.S. Business 190 on the south bank of Nolan Creek with an associated collection system located north of the intersection of Farm-to-Market Road 2410 and Granite Trail in Bell County, Texas

TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: June 24, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 24, 2006 to June 24, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Heather Brister Phone: (254) 761-3034

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: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. 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	07/07/2006	(499440)
2	08/09/2006	(521498)
3	09/11/2006	(521499)
4	10/10/2006	(521500)
5	08/09/2006	(521501)
6	09/21/2006	(530982)
7	02/11/2007	(535025)
8	09/11/2007	(571325)
9	02/09/2007	(578019)
10	03/09/2007	(578020)
11	04/12/2007	(578021)
12	05/09/2007	(578022)
13	06/08/2007	(578023)
14	07/13/2007	(578024)
15	08/13/2007	(578025)
16	11/09/2006	(578026)
17	12/08/2006	(578027)
18	12/10/2007	(598195)
19	09/11/2007	(602361)
20	10/15/2007	(602362)
21	11/14/2007	(620550)
22	12/12/2007	(620551)
23	01/10/2008	(620552)
24	02/08/2008	(672810)
25	03/13/2008	(672811)
26	04/07/2008	(672812)
27	04/02/2008	(672813)
28	04/02/2008	(672814)
29	06/25/2008	(682306)
30	07/16/2008	(684610)
31	05/08/2008	(690840)
32	06/11/2008	(690841)

33	08/12/2008	(711720)
34	09/05/2008	(711721)
35	10/09/2008	(711722)
36	11/10/2008	(711723)
37	12/08/2008	(728195)
38	02/10/2009	(751153)
39	03/09/2009	(751154)
40	04/09/2009	(751155)
41	02/09/2009	(751156)
42	02/09/2009	(751157)
43	05/13/2009	(769004)
44	06/10/2009	(769005)
45	11/23/2009	(783383)
46	02/12/2010	(790595)
47	05/12/2010	(801066)
48	02/11/2010	(806880)
49	08/13/2009	(806881)
50	09/12/2009	(806882)
51	08/10/2009	(806883)
52	11/12/2009	(806884)
53	12/14/2009	(806885)
54	07/13/2010	(829088)
55	03/10/2010	(831654)
56	04/13/2010	(831655)
57	05/17/2010	(831656)
58	06/09/2010	(846508)
59	07/15/2010	(861068)
60	10/20/2010	(866433)
61	08/20/2010	(867129)
62	09/16/2010	(874181)
63	10/14/2010	(881779)
64	11/11/2010	(888272)
65	12/15/2010	(896545)
66	07/19/2010	(902559)
67	05/11/2011	(906585)
68	02/09/2011	(909347)
69	03/16/2011	(916605)
70	04/15/2011	(925650)

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

Date: **09/21/2006** (530982) CN600509277
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: **09/30/2009** (806883) CN600509277
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: **10/31/2009** (806884) CN600509277
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: **02/12/2010** (790595) CN600509277

Self Report? NO Classification: Minor

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
Permit Conditions PERMIT

Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
TPDES MSGP TXR050000 PERMIT

Description: Failure to obtain authorization for storm water discharges associated with an industrial facility.

Date: **09/30/2010** (881779) CN600509277

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
CITY OF HARKER HEIGHTS	**§**	
RN101920395	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0810-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 Harker Heights ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent 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 Respondent 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 Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately 3,000 feet northwest of the intersection of United States ("U.S.") Business 190 and Farm-to-Market Road 3219, approximately 1/4 mile north of U.S. Business 190 on the south bank of Nolan Creek which includes a collection system with manholes located

north of the intersection of Farm-to-Market Road 2410 and Granite Trail in Bell County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26

3. During an investigation on March 7, 2011, TCEQ staff documented a grease blockage in the collection system located north of the intersection of Farm-to-Market Road 2410 and Granite Trail which caused approximately 28,800 gallons of wastewater to discharge from two manholes and a septic tank. The discharge flowed directly into an unnamed tributary of Stillhouse Hollow Lake, which resulted in a fishkill of approximately 430 fish.

4. The Respondent received notice of the violations on May 13, 2011.

5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

   a. By March 7, 2011:

      i. Jetted and televised the collection lines and removed the grease blockage;

      ii. Removed and properly disposed of wastewater and dead fish from the unnamed tributary; and

      iii. Cleaned and disinfected the stream banks.

   b. By March 9, 2011, the landowner removed the septic tank from the collection system.

II. CONCLUSIONS OF LAW

1. The Respondent 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 Respondent failed to prevent an unauthorized discharge of wastewater from the collection system into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(4), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010155001, 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 Respondent 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 Nine Thousand Seven Hundred Dollars ($9,700) 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 Respondent has paid the Nine Thousand Seven Hundred Dollar ($9,700) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Nine Thousand Seven Hundred Dollars ($9,700) 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 Respondent'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 Harker Heights, Docket No. 2011-0810-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.

3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 9/22/11
For the Executive Director Date

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

_____ 7/12/2011
Signature Date

Michael M. Hyeock _____ Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Harker Heights

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