

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0348-MWD-E **TCEQ ID:** RN101918936 **CASE NO.:** 39253
RESPONDENT NAME: City of De Kalb

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <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 | |
| CASE TYPE: | | |
| <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>SITE WHERE VIOLATION(S) OCCURRED: City of De Kalb South WWTP, located south of De Kalb, approximately 1.5 miles due south of the intersection of United States Highway 82 and Farm-to-Market Road 992, Bowie County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 2, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Paul G. Meadows, Mayor, City of De Kalb, 110 East Grizzley Street, De Kalb, Texas 75559 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

| VIOLATION SUMMARY CHART: | | |
|---|---|---|
| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 15, 2010</p> <p>Date of NOV/NOE Relating to this Case: February 12, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WASTE</p> <p>1) Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand, ammonia nitrogen, flow, and total suspended solids [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failed to submit effluent monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010062002 Monitoring and Reporting Requirements No. 1].</p> | <p>Total Assessed: \$20,960</p> <p>Total Deferred: \$20,960 <input type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty.</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$0</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the discharge monitoring report ("DMR") for the period ending September 30, 2009; and</p> <p>b. Within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010062002, and Ordering Provision a., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted limitations.</p> |

Additional ID No(s): WQ0010062002



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 24-Feb-2010 | Screening | 25-Feb-2010 | EPA Due | |
| | PCW | 1-Mar-2010 | | | | |

| | | | |
|--|-----------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | City of De Kalb | | |
| Reg. Ent. Ref. No. | RN101918936 | | |
| Facility/Site Region | 5-Tyler | Major/Minor Source | Minor |

| | | | |
|-------------------------|-----------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 39253 | No. of Violations | 3 |
| Docket No. | 2010-0348-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Cheryl Thompson |
| | | 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 | \$8,000 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|---------------------------|--------------------------------|-----------------|
| Compliance History | 157.0% Enhancement | Subtotals 2, 3, & 7 | \$12,560 |
|---------------------------|---------------------------|--------------------------------|-----------------|

Notes: The Respondent received one NOV for dissimilar violations, two NOVs for same or similar violations and reported 24 months of effluent violations. The Respondent also received one Agreed Order without denial of liability.

| | | | | |
|--------------------|-----------|-------------------------|-------------------|------------|
| 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 | \$0 |
|--|-------------------|------------|

| | | | |
|-------------------------|--------------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|--------------------------|-------------------|------------|

Total EB Amounts \$1,726
 Approx. Cost of Compliance \$18,050
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$20,560 |
|-----------------------------|-----------------------|-----------------|

| | | | |
|---|-------------|-------------------|--------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 1.9% | Adjustment | \$400 |
|---|-------------|-------------------|--------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount.

| | |
|-----------------------------|-----------------|
| Final Penalty Amount | \$20,960 |
|-----------------------------|-----------------|

| | | |
|-----------------------------------|-------------------------------|-----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$20,960 |
|-----------------------------------|-------------------------------|-----------------|

| | | | |
|-----------------|-----------------------|-------------------|------------|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|-----------------------|-------------------|------------|

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

Notes: No deferral is recommended for Findings Orders.

| | |
|------------------------|-----------------|
| PAYABLE PENALTY | \$20,960 |
|------------------------|-----------------|

Screening Date 25-Feb-2010

Docket No. 2010-0348-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 2 (September 2002)

Case ID No. 39253

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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 (<i>number of NOVs meeting criteria</i>) | 26 | 130% |
| | Other written NOVs | 1 | 2% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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 (<i>number of judgements or consent decrees meeting criteria</i>) | 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 (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 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 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 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) 157%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one NOV for dissimilar violations, two NOVs for same or similar violations and reported 24 months of effluent violations. The Respondent also received one Agreed Order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 157%

Screening Date 25-Feb-2010

Docket No. 2010-0348-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 2 (September 2002)

Case ID No. 39253

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on January 15, 2010. See attached table.

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

A simplified model was used to evaluate ammonia nitrogen ("NH3-N") and carbonaceous biochemical oxygen demand (5-day) ("CBOD5") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") was also considered. As a result of these discharges, human health or the environment has been exposed to amounts of pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 31 Number of violation days

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

Violation Base Penalty \$5,000

One monthly event is recommended for the month of January 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDRP/Settlement |
|---------------|------------|------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,724

Violation Final Penalty Total \$13,100

This violation Final Assessed Penalty (adjusted for limits) \$13,100

Economic Benefit Worksheet

Respondent City of De Kalb
Case ID No. 39253
Reg. Ent. Reference No. RN101918936
Media Water Quality
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|---------|-----|---------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$18,000 | 31-Jan-2009 | 31-Dec-2010 | 1.92 | \$1,724 | n/a | \$1,724 |

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

| | | | |
|-----------------------------------|----------|--------------|---------|
| Approx. Cost of Compliance | \$18,000 | TOTAL | \$1,724 |
|-----------------------------------|----------|--------------|---------|

Screening Date 25-Feb-2010

Docket No. 2010-0348-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 2 (September 2002)

Case ID No. 39253

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0010062002 Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on January 15, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | x |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH3-N") and carbonaceous biochemical oxygen demand ("CBOD5") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") was also considered. As a result of these discharges, human health or the environment has been exposed to amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

154 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended for the quarters with the months of July, August, October, November, and December 2009.

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,240

This violation Final Assessed Penalty (adjusted for limits) \$5,240

Economic Benefit Worksheet

Respondent City of De Kalb
Case ID No. 39253
Reg. Ent. Reference No. RN101918936
Media Water Quality
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

See violation #1

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 \$0

TOTAL \$0

Screening Date 25-Feb-2010

Docket No. 2010-0348-MWD-E

PCW

Respondent City of De Kalb

Policy Revision 2 (September 2002)

Case ID No. 39253

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101918936

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010062002 Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit effluent monitoring results at the intervals specified in the permit. Specifically, the Respondent did not submit the discharge monitoring report ("DMR") for Outfall 001A for the monitoring period ending September 30, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 1 30 Number of violation days

| | |
|--------------|---|
| 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

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,620

This violation Final Assessed Penalty (adjusted for limits) \$2,620

Economic Benefit Worksheet

Respondent City of De Kalb
Case ID No. 39253
Reg. Ent. Reference No. RN101918936
Media Water Quality
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$50 | 20-Oct-2009 | 31-Oct-2010 | 1.03 | \$3 | n/a | \$3 |

Notes for DELAYED costs

Estimated cost to submit the delinquent DMR. Date required is the date the DMR was due. Final date is projected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$3

Compliance History Report

| | | | | |
|---|---|---------------------------|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN601365414 | City of De Kalb | Classification: AVERAGE | Rating: 3.26 |
| Regulated Entity: | RN101918936 | CITY OF DEKALB SOUTH WWTP | Classification: AVERAGE | Site Rating: 3.52 |
| ID Number(s): | WASTEWATER | PERMIT | WQ0010062002 | |
| | WASTEWATER | PERMIT | TPDES0069671 | |
| | WASTEWATER | PERMIT | TX0069671 | |
| | WASTEWATER LICENSING | LICENSE | WQ0010062002 | |
| Location: | located south of De Kalb, approximately 1.5 miles due south of the intersection of U.S. Highway 82 and Farm-to-Market Road 992 in Bowie County, Texas | | | |
| TCEQ Region: | REGION 05 - TYLER | | | |
| Date Compliance History Prepared: | March 04, 2010 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | March 04, 2005 to March 04, 2010 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | Cheryl Thompson | Phone: | (817) 588-5886 | |

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: 02/25/2008 | ADMINORDER 2006-1392-MWD-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) | |
| 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Rqmt Prov: Effluent Limits PERMIT | |
| Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(17) | |
| Rqmt Prov: Self-reporting Requirements PERMIT | |
| Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review. | |

- 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 | 03/24/2005 | (385445) |
| 2 | 04/25/2005 | (423478) |
| 3 | 05/20/2005 | (423479) |
| 4 | 06/20/2005 | (423480) |
| 5 | 07/27/2005 | (444285) |
| 6 | 08/23/2005 | (444286) |
| 7 | 09/26/2005 | (444287) |
| 8 | 10/21/2005 | (444288) |
| 9 | 11/28/2005 | (474779) |
| 10 | 12/20/2005 | (474780) |
| 11 | 01/23/2006 | (474781) |
| 12 | 02/17/2006 | (449655) |
| 13 | 02/27/2006 | (474778) |
| 14 | 03/27/2006 | (502485) |
| 15 | 04/24/2006 | (502486) |
| 16 | 05/22/2006 | (502487) |
| 17 | 06/21/2006 | (502488) |
| 18 | 07/24/2006 | (524811) |
| 19 | 08/18/2006 | (497126) |
| 20 | 08/21/2006 | (524812) |
| 21 | 09/25/2006 | (524813) |

| | | |
|----|------------|----------|
| 22 | 10/19/2006 | (549720) |
| 23 | 11/30/2006 | (549721) |
| 24 | 12/27/2006 | (549722) |
| 25 | 01/22/2007 | (549723) |
| 26 | 02/26/2007 | (583837) |
| 27 | 03/21/2007 | (583838) |
| 28 | 04/20/2007 | (583839) |
| 29 | 05/22/2007 | (583840) |
| 30 | 06/25/2007 | (583841) |
| 31 | 07/23/2007 | (608404) |
| 32 | 08/08/2007 | (608405) |
| 33 | 09/21/2007 | (608406) |
| 34 | 10/22/2007 | (622984) |
| 35 | 11/26/2007 | (622985) |
| 36 | 12/27/2007 | (622986) |
| 37 | 01/28/2008 | (674397) |
| 38 | 02/22/2008 | (674395) |
| 39 | 03/26/2008 | (674396) |
| 40 | 05/19/2008 | (692741) |
| 41 | 05/22/2008 | (692742) |
| 42 | 06/20/2008 | (692743) |
| 43 | 06/23/2008 | (683892) |
| 44 | 07/08/2008 | (554155) |
| 45 | 07/21/2008 | (713879) |
| 46 | 08/21/2008 | (713880) |
| 47 | 09/25/2008 | (713881) |
| 48 | 10/20/2008 | (729880) |
| 49 | 11/06/2008 | (706917) |
| 50 | 11/24/2008 | (729881) |
| 51 | 12/10/2008 | (729882) |
| 52 | 01/12/2009 | (729883) |
| 53 | 02/10/2009 | (723932) |
| 54 | 02/10/2009 | (753113) |
| 55 | 03/09/2009 | (753114) |
| 56 | 04/08/2009 | (753115) |
| 57 | 05/06/2009 | (770668) |
| 58 | 06/09/2009 | (770669) |
| 59 | 10/08/2009 | (765570) |
| 60 | 01/29/2010 | (789127) |
| 61 | 02/12/2010 | (788548) |

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

Date: 01/31/2006 (474778) CN601365414
 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 (449655) CN601365414
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain the chlorine residual within the permitted effluent limits.

Date 03/31/2006 (502486) CN601365414
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2006 (502487) CN601365414
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date 05/31/2006 (502488) CN601365414
 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 (524813) CN601365414
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2006 (549721) CN601365414
 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 | 02/28/2007 | (583838) | CN601365414 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 04/30/2007 | (583840) | CN601365414 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 05/31/2007 | (583841) | CN601365414 |
| 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 | 07/31/2007 | (608405) | CN601365414 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) | | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 09/30/2007 | (622984) | CN601365414 |
| 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 | (622985) | CN601365414 |
| 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 | 11/30/2007 | (622986) | CN601365414 |
| 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 | 12/31/2007 | (674397) | CN601365414 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) | | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 01/31/2008 | (674395) | CN601365414 |
| 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 | 02/29/2008 | (674396) | CN601365414 |
| Self Report? | YES | | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) | | |
| | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 04/30/2008 | (692742) | CN601365414 |
| 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 | 05/31/2008 | (692743) | CN601365414 |
| 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 | 11/05/2008 | (706917) | CN601365414 |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) | | |
| Description: | Failure to maintain facility. Specifically: | | |
| | a. Equalization basin. During the investigation, woody vegetation was observed growing within the equalization basin. | | |
| | b. Maintain clarifier. During the investigation, the clarifier weirs were uneven, rust was found on the weir plates, and excessive algae encrusted the clarifier. | | |
| | c. Maintain aeration basin rotor. The rotor was unbalanced which may result in failure of the equipment. | | |
| | d. Maintain oxidation ditch. Excessive vegetation in ditch. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |

Description: Failure to measure the influent/effluent in an accurate manner. During the investigation it was documented that the meter was not calibrated for submerged flow. Additionally, the last calibration date was in December of 2007. The staff gauge must be installed correctly on the flume as a primary flow measuring device.

Date 01/31/2009 (753113) CN601365414

Self Report? YES Classification: Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2009 CN601365414

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: 08/31/2009 CN601365414

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 CN601365414

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 11/30/2009 CN601365414

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 12/31/2009 CN601365414

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 (789127) CN601365414

Self Report? NO Classification: Minor

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

Description: Failure to maintain the collection system.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)

30 TAC Chapter 30, SubChapter J 30.350(d)

Description: Failure to have operator, holding a Category C license or higher, operating the facility at a minimum of five days per week.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to maintain facility, specifically, failure to maintain equalization basin.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)

Description: Failure to notify the TCEQ Regional Office of an unauthorized discharge.

Self Report? NO Classification: Minor

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

Description: Failure to meet permitted effluent limitations.

Self Report? NO Classification: Minor

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

Description: Failure to measure the influent/effluent in an accurate manner.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to submit Discharge Monitoring Report (DMR) for the month of September 2009.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)

30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to provide calibration records for the pH, dissolved oxygen, and chlorine instruments.

Self Report? NO Classification: Minor

Citation: TPDES WQ0010062002 PERMIT

TWC Chapter 26 26.121

Description: Failure to prevent an unauthorized discharge into a water of the State.

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 DE KALB
RN101918936**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0348-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 De Kalb (“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 they have 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 facility south of De Kalb, approximately 1.5 miles due south of the intersection of United States Highway 82 and Farm-to-Market Road 992 in Bowie 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 a record review on January 15, 2010, TCEQ staff documented that the Respondent exceeded the permitted effluent limits as depicted in the table below:

| | January 2009 | July 2009 | August 2009 | October 2009 | November 2009 | December 2009 |
|---|-----------------|--------------|----------------|-----------------|------------------|------------------|
| CBOD ₅ Daily Average Concentration 10 mg/L | c | c | c | c | 12.3 | c |
| CBOD ₅ Daily Average Loading 29 lbs/day | c | c | c | c | 34.4 | c |
| Ammonia Nitrogen Daily Average Concentration 3 mg/L | 11.48 | 5.84 | 4.65 | c | 9.59 | 7.22 |
| Ammonia Nitrogen Daily Average Loading 8.8 lbs/day | 28.3 | 24.24 | 19.2 | c | 25.3 | 12.19 |
| Ammonia Nitrogen Single Grab 15 mg/L | 19.6 | c | c | c | c | c |
| Flow Daily Average 0.35 MGD | c | c | c | 0.371 | c | c |
| TSS Daily Average Concentration 15 mg/L | 32.5 | c | 19.3 | 15.9 | c | 21.2 |
| TSS Daily Average Loading 44 lbs/day | c | c | 86.1 | 70 | c | 69.8 |
| TSS Single Grab 60 mg/L | 96 | c | c | c | c | c |

mg/L = milligrams per liter CBOD₅ = carbonaceous biochemical oxygen demand (5-day)
MGD = million gallons per day lbs/day = pounds per day TSS = total suspended solids
c= compliant

4. During a record review on January 15, 2010, TCEQ staff documented that the Respondent did not submit effluent monitoring results at the intervals specified in the permit. 1. Specifically, the Respondent did not submit the discharge monitoring report ("DMR") for Outfall 001A for the monitoring period ending September 30, 2009.
5. The Respondent received notice of the violations on February 17, 2010.

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 comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010062002, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010062002 Monitoring and Reporting Requirements No. 1.
4. 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.
5. An administrative penalty in the amount of Twenty Thousand Nine Hundred Sixty Dollars (\$20,960) 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 Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay the administrative penalty. Therefore, Twenty Thousand Nine Hundred Sixty Dollars (\$20,960) of the penalty is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or a part of the deferred penalty.

III. ORDERING PROVISIONS

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

The Respondent is assessed an administrative penalty in the amount of Twenty Thousand Nine Hundred Sixty Dollars (\$20,960) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. 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 De Kalb, Docket No. 2010-0348-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 Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit the DMR for the period ending September 30, 2009, in accordance with the requirements of TPDES Permit No. WQ0010062002; and
 - b. Within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010062002, and Ordering Provision No. 2.a., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. 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.
4. If the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 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.
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 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.

9. 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.
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

4.14.2011

Date

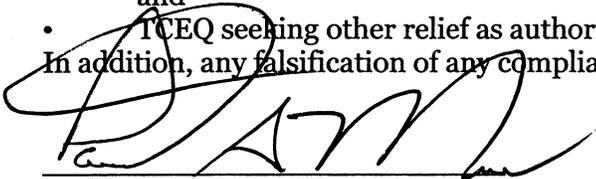
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of De Kalb. I am authorized to agree to the attached Agreed Order on behalf of the City of De Kalb, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of De Kalb 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

2/24/11

Date

PAUL G. MEADOWS

Name (Printed or typed)
Authorized Representative of
City of De Kalb

Mayor

Title