Executive Summary – Enforcement Matter – Case No. 41267
City of Lovelady
RN102185543
Docket No. 2011-0351-MWD-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MWD
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
City of Lovelady, located approximately 0.5 mile southwest of the intersection of State Highway 19 and Farm-to-Market Road 1280, Houston 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: May 20, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $3,972
Amount Deferred for Expedited Settlement: $794
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $3,178
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

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Docket No. 2011-0351-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 8, 2011

Date(s) of NOE(s): March 4, 2011

Violation Information

1. Failed to timely submit the monthly discharge monitoring reports ("DMRs") by the 20th day of the following month. Specifically, the DMRs for the months of February 2010, March 2010, May 2010, September 2010, and November 2010 were submitted March 9, 2011 [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010734001, Monitoring and Reporting Requirements No. 1, and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d)].

2. Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010 [TPDES Permit No. WQ0010734001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17)].

3. Failed to comply with permitted effluent limits for biochemical oxygen demand, pH, and dissolved oxygen [TPDES Permit No. WQ0010734001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. By July 31, 2010, re-circulated the effluent;

2. By August 31, 2010, replaced the aerators in the lagoon;

3. By October 31, 2010, replaced the acid flow regulator valve;

4. By November 30, 2010, returned to compliance with permitted effluent limits;

5. By March 9, 2011, submitted DMRs for the months of February 2010, March 2010, May 2010, September 2010, and November 2010; and

6. By March 11, 2011, submitted the annual sludge report for the reporting period ending July 31, 2010.

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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
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Michael Broxson, Mayor, City of Lovelady, P.O. Box 83, Lovelady, Texas 75851
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
Assigned	7-Mar-2011					
PCW	9-Mar-2011	**Screening**	7-Mar-2011	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	City of Lovelady		
Reg. Ent. Ref. No.	RN102185543		
Facility/Site Region	10-Beaumont	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	41267	**No. of Violations**	3
Docket No.	2011-0351-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*: $2,600

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 72.0% Enhancement — *Subtotals 2, 3, & 7*: $1,872

Notes: Enhancement for one order with denial of liability, one NOV with dissimilar violations, and for ten months of self-reported effluent violations.

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*: $500

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

Total EB Amounts: $70
Approx. Cost of Compliance: $2,650
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $3,972

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0.0% — *Adjustment*:

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: $3,972

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $3,972

DEFERRAL — 20.0% Reduction — *Adjustment*: -$794

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: $3,178

Screening Date 7-Mar-2011 **Docket No.** 2011-0351-MWD-E **PCW**

Respondent City of Lovelady

Case ID No. 41267

Reg. Ent. Reference No. RN102185543

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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*)	10	50%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		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) 72%

>> 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 one order with denial of liability, one NOV with dissimilar violations, and for ten months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 7-Mar-2011 **Docket No.** 2011-0351-MWD-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent City of Lovelady

Case ID No. 41267

Reg. Ent. Reference No. RN102185543

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010734001, Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(1) and 319.7(d)

Violation Description Failed to timely submit the monthly discharge monitoring reports ("DMRs") by the 20th day of the following month. Specifically, the DMRs for the months of February 2010, March 2010, May 2010, September 2010, and November 2010 were submitted March 9, 2011.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 5 — 5 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $500

Five single events are recommended, one for each of the DMRs that were not submitted timely.

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 $500

Economic Benefit (EB) for this violation

Estimated EB Amount $24

Statutory Limit Test

Violation Final Penalty Total $860

This violation Final Assessed Penalty (adjusted for limits) $860

Economic Benefit Worksheet

Respondent City of Lovelady
Case ID No. 41267
Reg. Ent. Reference No. RN102185543
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)	$500	20-Mar-2010	9-Mar-2011	0.97	$24	n/a	$24
Notes for DELAYED costs	Estimated cost to prepare and submit the missing DMRs ($100 per DMR). Date Required is the date the first DMR was due. 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 $500

TOTAL $24

Screening Date 7-Mar-2011 **Docket No.** 2011-0351-MWD-E **PCW**

Respondent City of Lovelady *Policy Revision 2 (September 2002)*

Case ID No. 41267 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102185543

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0010734001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 1 — 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

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 $100

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $172

This violation Final Assessed Penalty (adjusted for limits) $172

Economic Benefit Worksheet

Respondent City of Lovelady
Case ID No. 41267
Reg. Ent. Reference No. RN102185543
Media Water Quality
Violation No. 2

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)	$150	1-Sep-2010	11-Mar-2011	0.52	$4	n/a	$4
Notes for DELAYED costs	Estimated cost to prepare and submit the required sludge report. Date Required is the date the report was due. Final Date is the date the report was submitted.						
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 $150

TOTAL $4

Screening Date 7-Mar-2011 **Docket No.** 2011-0351-MWD-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent City of Lovelady

Case ID No. 41267

Reg. Ent. Reference No. RN102185543

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s) TPDES Permit No. WQ0010734001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits. See attached Effluent Limit Violation Table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen and pH values were also considered. As a result of these discharges, 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 environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 2 — 122 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.

Good Faith Efforts to Comply

25.0% Reduction — $500

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

Notes: The Respondent achieved compliance by November 30, 2010 for this violation.

Violation Subtotal $1,500

Economic Benefit (EB) for this violation

Estimated EB Amount $42

Statutory Limit Test

Violation Final Penalty Total $2,940

This violation Final Assessed Penalty (adjusted for limits) $2,940

Economic Benefit Worksheet

Respondent City of Lovelady
Case ID No. 41267
Reg. Ent. Reference No. RN102185543
Media Water Quality
Violation No. 3

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)	$2,000	1-Jul-2010	30-Nov-2010	0.42	$42	n/a	$42

Notes for DELAYED costs: Estimated cost to replace the acid flow regulator valve, to replace the aerators in the lagoon, to re-circulate the effluent and return to compliance with permitted limits. Date Required is the first date of non-compliance. 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 $2,000

TOTAL $42

Effluent Limit Violation Table

	City of Lovelady
	RN102185543, Case No. 41267, TPDES Permit No. WQ0010734001
	2011-0351-MWD-E
	Jorge Ibarra, P.E.

Corresponds to Violation Number: 3

EFFLUENT PARAMETER

Permit Limit

	BOD5 Daily Average Concentration	pH Maximum	DO Minimum		
Month/Year	30 mg/L	9 su	4 mg/L		
July 2010	30.2	c	c		
August 2010	c	9.17	3.6		
October 2010	c	9.27	c		

Name
milligram per liter - mg/L
Biochemical Oxygen Demand (5-day) - BOD5
Dissolve Oxygen - DO
standard units - su
compliant - c

Compliance History

Customer/Respondent/Owner-Operator:	CN600658025	City of Lovelady	Classification: AVERAGE	Rating: 1.71
Regulated Entity:	RN102185543	CITY OF LOVELADY	Classification: AVERAGE	Site Rating: 1.71
ID Number(s):	WASTEWATER		PERMIT	WQ0010734001
	WASTEWATER		EPA ID	TX0027138
	WASTEWATER LICENSING		LICENSE	WQ0010734001
Location:	located approximately 0.5 mile southwest of the intersection of State Highway 19 and Farm-to-Market Road 1280 in Houston County, Texas			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	March 07, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 07, 2006 to March 07, 2011			

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: 9/1/2010 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.

Effective Date: 05/25/2007 ADMINORDER 2003-1298-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 the permit limit for 5-day Biochemical Oxygen Demand daily average (mg/l) at Outfall 001A for the monitoring periods ending 10/31/01 and 11/30/01. These violations meet referral criteria.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 305, SubChapter F 305.126(a)

Rqmt Prov: WQ 10734-001 PERMIT
Description: Failure by the City of Lovelady to properly maintain units of conveyance. Review of effluent flow charts indicate that the facility is severely impacted by I/I.

Classification: Minor

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

Rqmt Prov: WQ 10734-001 PERMIT
Description: Failure by the City of Lovelady to maintain records of calibration. A pH meter calibration log was not maintained.

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	03/20/2006	(471249)
2	04/28/2006	(499994)
3	05/30/2006	(499995)
4	06/16/2006	(499996)
5	07/21/2006	(522102)
6	08/21/2006	(522103)
7	09/25/2006	(522104)
8	10/30/2006	(546762)
9	12/01/2006	(546763)
10	01/29/2007	(546764)
11	05/03/2007	(558775)
12	06/08/2007	(563011)
13	02/28/2007	(579051)
14	03/26/2007	(579052)
15	05/07/2007	(579053)
16	05/18/2007	(579054)
17	06/21/2007	(579055)
18	01/10/2007	(579056)
19	08/13/2007	(602687)
20	08/13/2007	(602688)
21	09/27/2007	(602689)
22	10/22/2007	(620940)
23	11/28/2007	(620941)
24	12/20/2007	(620942)
25	02/19/2008	(673111)
26	01/21/2008	(673112)
27	03/31/2008	(691254)
28	04/21/2008	(691255)
29	05/30/2008	(691256)
30	02/04/2009	(700796)
31	06/30/2008	(712111)
32	07/14/2008	(712112)
33	08/25/2008	(712113)
34	09/22/2008	(712114)
35	10/23/2008	(728482)
36	11/12/2008	(728483)
37	12/19/2008	(728484)
38	02/26/2009	(751573)
39	02/13/2009	(751574)
40	03/18/2009	(769323)
41	04/27/2009	(769324)
42	05/15/2009	(769325)
43	02/26/2010	(807708)
44	06/19/2009	(807709)
45	07/30/2009	(807710)
46	07/21/2009	(807711)

47	09/23/2009	(807712)
48	10/26/2009	(807713)
49	11/19/2009	(807714)
50	12/28/2009	(807715)
51	01/21/2010	(807716)
52	07/19/2010	(825924)
53	06/01/2010	(845163)
54	06/30/2010	(861171)
55	08/19/2010	(867254)
56	09/27/2010	(874297)
57	11/18/2010	(888379)
58	03/04/2011	(895056)

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

Date: 07/31/2006 (522103) CN600658025

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 (546763) CN600658025

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: 05/03/2007 (558775) CN600658025

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 305, SubChapter F 305.126(a)
WQ 10734-001 PERMIT

Description: Failure by the City of Lovelady to properly maintain units of conveyance. Review of effluent flow charts indicate that the facility is severely impacted by I/I.

Self Report? NO Classification: Moderate

Citation: OpR 1 PERMIT

Description: Failure by the City of Lovelady to maintain two operable pumps in Lift Station #2 (Raines Street).

Date: 05/31/2007 (579055) CN600658025

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: 11/30/2007 (620942) CN600658025

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 (673112) CN600658025

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 (691254) CN600658025

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: 09/30/2008 (728482) CN600658025
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: 07/31/2010 (867254) CN600658025
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: 08/31/2010 (874297) CN600658025
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 10/31/2010 (888379) CN600658025
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 LOVELADY RN102185543	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0351-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 the City of Lovelady ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 0.5 mile southwest of the intersection of State Highway 19 and Farm-to-Market Road 1280 in Houston 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. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 9, 2011.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Nine Hundred Seventy-Two Dollars ($3,972) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand One Hundred Seventy-Eight Dollars ($3,178) of the administrative penalty and Seven Hundred Ninety-

Four Dollars ($794) 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 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 Respondent 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 Respondent has implemented the following corrective measures at the Facility:

   a. By July 31, 2010, re-circulated the effluent;

   b. By August 31, 2010, replaced the aerators in the lagoon;

   c. By October 31, 2010, replaced the acid flow regulator valve;

   d. By November 30, 2010, returned to compliance with permitted effluent limits;

   e. By March 9, 2011, submitted discharge monitoring reports ("DMRs") for the months of February 2010, March 2010, May 2010, September 2010, and November 2010; and

   f. By March 11, 2011, submitted the annual sludge report for the reporting period ending July 31, 2010.

10. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. 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.

12. 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 Respondent is alleged to have:

1. Failed to timely submit the monthly DMRs by the 20th day of the following month, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010734001, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d), as documented during a record review conducted on February 8, 2011. Specifically, the DMRs for the months of February 2010, March 2010, May 2010, September 2010, and November 2010 were submitted March 9, 2011.

2. Failed to timely submit monitoring results at the intervals specified in the permit, in violation of TPDES Permit No. WQ0010734001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17), as documented during a record review conducted on February 8, 2011. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2010 by September 1, 2010.

3. Failed to comply with permitted effluent limits, in violation of TPDES Permit No. WQ0010734001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on February 8, 2011 and shown in the table below:

EFFLUENT PARAMETER			
Permit Limit			
	BOD5 Daily Average Concentration	pH Maximum	DO Minimum
Month/Year	30 mg/L	9 su	4 mg/L
July 2010	30.2	c	c
August 2010	c	9.17	3.6
October 2010	c	9.27	c

su = standard units mg/L = milligrams per liter c = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 Lovelady, Docket No. 2011-0351-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. 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.

4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

_____ 6/10/2011
For the Executive Director 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.

_____ 4/12/11
Signature Date

_____ _____
Name (Printed or typed) Title
Authorized Representative of
City of Lovelady

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.