

Executive Summary – Enforcement Matter – Case No. 41305

City of Lefors

RN102184546

Docket No. 2011-0493-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Lefors Wastewater Treatment Plant, located approximately 1,300 feet south of State Highway 273 at a point 2.5 miles west of the intersection of Farm-to-Market Road 291 and State Highway 273 south of Lefors, Gray 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: July 15, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,550

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$3,550

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. 41305

City of Lefors

RN102184546

Docket No. 2011-0493-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 25, 2011

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

Violation Information

1. Failed to timely submit effluent monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1, and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010411001 Monitoring and Reporting Requirements No. 1].
2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010411001 Sludge Provisions].
3. Failed to comply with the permitted effluent limits for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ001411001 Effluent Limitations and Monitoring Requirements No. 1].

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. Adjusted the aerator and returned to compliance with the permitted effluent limits by February 28, 2010.
- b. Submitted the discharge monitoring reports (“DMRs”) for the monitoring periods ending February 28, March 31, April 30, and October 31 of 2010 on April 8, 2011.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual sludge reports;
 - ii. Submit the annual sludge monitoring report for the monitoring period ending July 31, 2010.

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Docket No. 2011-0493-MWD-E

b. Within 45 days, submit written certification demonstrating compliance.

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: Harvey Wilson, Enforcement Division,
Enforcement Team 3, MC 149, (512) 239-0321; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable J. Susan Oldham, Mayor, City of Lefors, P.O. Box 383,
Lefors, Texas 79054

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	Screening	7-Mar-2011	EPA Due	
	PCW	3-May-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Lefors
Reg. Ent. Ref. No.	RN102184546
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41305	No. of Violations	3
Docket No.	2011-0493-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Enhancement for one NOV with dissimilar violation, two NOVs with same/similar violations, four months of self reported effluent violations, and one 1660 Agreed Order with denial.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 7-Mar-2011

Docket No. 2011-0493-MWD-E

PCW

Respondent City of Lefors

Policy Revision 2 (September 2002)

Case ID No. 41305

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184546

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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 (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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) 52%

>> **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 NOV with dissimilar violation, two NOVs with same/similar violations, four months of self reported effluent violations, and one 1660 Agreed Order with denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 52%

Screening Date 7-Mar-2011

Docket No. 2011-0493-MWD-E

PCW

Respondent City of Lefors

Policy Revision 2 (September 2002)

Case ID No. 41305

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184546

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010411001 Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit effluent monitoring results at the intervals specified in the permit. Specifically, the Respondent did not submit discharge monitoring reports for the monitoring periods ending February 28, March 31, April 30, September 30, and October 31 of 2010, until April 8, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 5 Number of violation days 5

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 event for each report.

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

Statutory Limit Test

Estimated EB Amount \$35

Violation Final Penalty Total \$760

This violation Final Assessed Penalty (adjusted for limits) \$760

Economic Benefit Worksheet

Respondent City of Lefors
Case ID No. 41305
Reg. Ent. Reference No. RN102184546
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	\$250	20-Mar-2010	31-Dec-2011	1.78	\$22	n/a	\$22
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	20-Mar-2010	8-Apr-2011	1.05	\$13	n/a	\$13

Notes for DELAYED costs

The estimated cost (\$25 per report) of preparing and submitting the discharge monitoring reports and to update operational guidance and train employees. Date Required is the date the initial report was due. Final Date is the date the DMRs were submitted and the estimated training 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

\$35

Screening Date 7-Mar-2011

Docket No. 2011-0493-MWD-E

PCW

Respondent City of Lefors

Policy Revision 2 (September 2002)

Case ID No. 41305

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184546

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010411001 Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The 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 \$7

Violation Final Penalty Total \$1,520

This violation Final Assessed Penalty (adjusted for limits) \$1,520

Economic Benefit Worksheet

Respondent City of Lefors
Case ID No. 41305
Reg. Ent. Reference No. RN102184546
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
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)	\$100	1-Sep-2010	31-Dec-2011	1.33	\$7	n/a	\$7

Notes for DELAYED costs

The estimated cost of preparing and submitting the annual sludge report. Date Required is the date the report was due. Final Date is the estimated 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 \$100

TOTAL \$7

Screening Date 7-Mar-2011

Docket No. 2011-0493-MWD-E

PCW

Respondent City of Lefors

Policy Revision 2 (September 2002)

Case ID No. 41305

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102184546

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ001411001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limits in TPDES Permit No. WQ001411001. Specifically, the Respondent exceeded the permitted daily average concentration limit of 20 milligrams per liter ("mg/L") for total suspended solids for the monitoring period ending January 31, 2010. The reported value was 21.72 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent came into compliance by February 28, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,270

This violation Final Assessed Penalty (adjusted for limits) \$1,270

Economic Benefit Worksheet

Respondent City of Lefors
Case ID No. 41305
Reg. Ent. Reference No. RN102184546
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)	\$100	31-Jan-2010	28-Feb-2010	0.08	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of adjusting the aerator. Date Required is the date the violation occurred. Final Date was 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

\$100

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN601119217	City of Lefors	Classification: AVERAGE	Rating: 2.19
Regulated Entity:	RN102184546	CITY OF LEFORS WWTP	Classification: AVERAGE	Site Rating: 1.38
ID Number(s):	WASTEWATER	PERMIT	WQ0010411001	
	WASTEWATER	EPA ID	TX0022586	
	WASTEWATER LICENSING	LICENSE	WQ0010411001	
Location:	APPROXIMATELY 1300 FEET S OF SH 273 AT A POINT 2.5 MILES W OF THE INTERSECTION OF FARM TO MARKET ROAD 291 AND SH 273 S OF THE CITY OF LEFORS IN GRAY COUNTY			
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	March 11, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 11, 2006 to March 11, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Harvey Wilson</u>	Phone:	<u>239 - 0321</u>	

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: 11/09/2007 | ADMINORDER 2007-0659-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. | |
- 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	04/14/2006	498978
2	04/14/2006	(498979)
3	06/19/2006	(498980)
4	06/19/2006	(498981)
5	08/21/2006	(521019)
6	08/21/2006	(521020)

7	09/15/2006	(521021)
8	04/19/2007	(553954)
9	05/17/2007	(553983)
10	02/23/2007	(577043)
11	04/12/2007	(577044)
12	04/27/2007	(577045)
13	11/06/2006	(577046)
14	12/14/2006	(577047)
15	01/12/2007	(577048)
16	01/24/2007	(577049)
17	07/02/2007	(602070)
18	08/06/2007	(602071)
19	08/31/2007	(602072)
20	11/26/2007	(620108)
21	11/26/2007	(620109)
22	11/26/2007	(620110)
23	01/30/2008	(672522)
24	01/30/2008	(672523)
25	03/17/2008	(690476)
26	05/05/2008	(690477)
27	05/05/2008	(690478)
28	07/18/2008	(690479)
29	07/18/2008	(690480)
30	07/18/2008	(690481)
31	11/14/2008	(705822)
32	08/14/2008	(711321)
33	09/15/2008	(711322)
34	12/19/2008	(727901)
35	12/19/2008	(727902)
36	04/21/2009	(738905)
37	02/02/2009	(750800)
38	02/02/2009	(750801)
39	03/23/2009	(768772)
40	04/20/2009	(768773)
41	04/20/2009	(768774)
42	05/21/2007	(768775)
43	02/08/2010	(787976)
44	02/19/2010	(806038)
45	06/11/2009	(806039)
46	07/22/2009	(806040)
47	07/22/2009	(806041)
48	08/14/2009	(806042)
49	09/24/2009	(806043)
50	10/22/2009	(806044)
51	12/03/2009	(806045)
52	01/07/2010	(806046)

53 02/19/2010 (806047)
 54 06/15/2010 (826142)
 55 09/09/2010 (867003)
 56 09/09/2010 (867004)
 57 09/09/2010 (867005)
 58 09/10/2010 (874057)
 59 03/04/2011 (893032)

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

Date: 07/31/2006 (521020) CN601119217
 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 (577047) CN601119217
 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: 05/16/2007 (553983) CN601119217
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Page 7, 2(g) PERMIT
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)
 TWC Chapter 26 26.121(a)(3)
 TWC Chapter 26 26.121(b)
 TWC Chapter 26 26.121(c)
 TWC Chapter 26 26.121(d)
 TWC Chapter 26 26.121(e)
 Description: Failure by the facility to prevent unauthorized discharges on 07/24/2006,
 08/24/2006 and 03/29/2007.
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Page 2, No. 1 PERMIT
 Description: Failure by the facility to maintain TSS daily average within the permit limit
 of 20 mg/l. The facility reported a daily average TSS of 22.5 mg/l during
 the month of October, 2006.
 Date: 04/30/2008 (690479) CN601119217
 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: 11/13/2008 (705822) CN601119217
 Self Report? NO Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
 2D TWC Chapter 26, SubChapter A 26.121(b)
 2D TWC Chapter 26, SubChapter A 26.121(c)
 2D TWC Chapter 26, SubChapter A 26.121(d)
 2D TWC Chapter 26, SubChapter A 26.121(e)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Permit Conditions 2,(g), pg.7 PERMIT

TWC Chapter 26 26.121

TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent an unauthorized discharge.

Self Report? NO Classification Moderate

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

Monitoring and Reporting, 7 (a), pg 5 PERMIT

Description: Failure to report an unauthorized discharge as permit required.

Self Report? NO Classification Moderate

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

Effluent Limitations 1, pg2 PERMIT

Description: Failure to meet permit effluent limitations for BOD5 and TSS.

Self Report? NO Classification Moderate

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

Monitoring and Reporting, 7 (c), pg 6 PERMIT

Description: Failure to report as permit required, a greater than 40% deviation of an effluent limitation for BOD5 and TSS.

Date 01/27/2010 (787976) CN601119217

Self Report? NO Classification Moderate

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

Page 10, No. 5 PERMIT

Description: Failure by the facility to install a flow meter to measure effluent flow.

Date 01/31/2010 (806038) CN601119217

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 LEFORS
RN102184546**

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

AGREED ORDER DOCKET NO. 2011-0493-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 Lefors (“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 1,300 feet south of State Highway 273 at a point 2.5 miles west of the intersection of Farm-to-Market Road 291 and State Highway 273 south of Lefors in Gray County, Texas (the “Facility”).

2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on January 25, 2011, TCEQ staff documented the Respondent did not submit discharge monitoring reports (“DMRs”) for the monitoring periods ending February 28, March 31, April 30, September 30, and October 31 of 2010.
4. During a record review on January 25, 2011, TCEQ staff documented the Respondent did not submit the annual sludge report for the monitoring period ending July 31, 2010.
5. During a record review on January 25, 2011, TCEQ staff documented the Respondent exceeded the permitted daily average concentration limit of 20 milligrams per liter (“mg/L”) for total suspended solids for the monitoring period ending January 31, 2010. The reported value was 21.72 mg/L.
6. The Respondent received notice of the violations on March 7, 2011.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the facility:
 - a. Adjusted the aerator and returned to compliance with the permitted effluent limits by February 28, 2010; and
 - b. Submitted the DMRs for the monitoring periods ending February 28, March 31, April 30, September 30, and October 31 of 2010 on April 8, 2011.

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 timely 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 Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010411001 Monitoring and Reporting Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010411001 Sludge Provisions.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ001411001 Effluent Limitations and Monitoring Requirements No. 1.

5. 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.
6. An administrative penalty in the amount of Three Thousand Five Hundred Fifty Dollars (\$3,550) 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 Three Thousand Five Hundred Fifty Dollar (\$3,550) 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 Three Thousand Five Hundred Fifty Dollars (\$3,550) as set forth in Section II, Paragraph 6 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 Lefors, Docket No. 2011-0493-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 Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. 0010411001 Monitoring and Reporting Requirements No. 1 and Sludge Provisions;
 - ii. Submit the annual sludge monitoring report for the monitoring period ending July 31, 2010.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

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.

City of Lefors
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Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

8/5/11
Date

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

J. Susan Oldham
Signature

July 27, 2011
Date

J. Susan Oldham
Name (Printed or typed)
Authorized Representative of
City of Lefors

Mayor
Title

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