

**Executive Summary – Enforcement Matter – Case No. 41565**  
**City of Coolidge**  
**RN101919025**  
**Docket No. 2011-0665-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Lagoon WWTP, located approximately 4,500 feet northeast of the intersection of Farm-to-Market Road 73 and Farm-to-Market Road 1951, Limestone County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 29, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,820

**Amount Deferred for Expedited Settlement:** \$364

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$1,456

**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. 41565**  
**City of Coolidge**  
**RN101919025**  
**Docket No. 2011-0665-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** April 11, 2011  
**Date(s) of NOE(s):** April 21, 2011

***Violation Information***

Failed to timely submit the discharge monitoring reports (“DMRs”) for the monitoring periods ending January 31, 2010 through December 31, 2010, and the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), and 319.7(d) and Texas Pollutant Discharge Elimination System Permit No. WQ0014751001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions].

***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. On April 28, 2011, submitted the DMRs for the monitoring periods ending January 31, 2010 through September 30, 2010 and the annual sludge report for the monitoring period ending July 31, 2010; and
- b. On May 18, 2011, submitted the DMRs for the monitoring periods ending October 31, 2010, November 30, 2010, and December 31, 2010.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of monthly DMRs and annual sludge reports; and
- 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

**Executive Summary – Enforcement Matter – Case No. 41565**  
**City of Coolidge**  
**RN101919025**  
**Docket No. 2011-0665-MWD-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Merrilee Hupp, Enforcement Division,  
Enforcement Team 1, MC 169, (512) 239-4490; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable David Frazier, Mayor, City of Coolidge, P.O. Box 457,  
Coolidge, Texas 76635

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	25-Apr-2011	<b>Screening</b>	3-May-2011	<b>EPA Due</b>	
	<b>PCW</b>	4-May-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Coolidge
<b>Reg. Ent. Ref. No.</b>	RN101919025
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	2
<b>Enf./Case ID No.</b>	41565	<b>Order Type</b>	1660
<b>Docket No.</b>	2011-0665-MWD-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Merrilee Hupp
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,300**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **40.0%** Enhancement **Subtotals 2, 3, & 7** **\$520**

Notes: Enhancement for three months of self-reported effluent violations, one NOV with same/similar violations, and one order with 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 \$43  
Approx. Cost of Compliance \$600  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,820**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$1,820**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,820**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$364**

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** **\$1,456**

**Screening Date** 3-May-2011

**Docket No.** 2011-0665-MWD-E

**PCW**

**Respondent** City of Coolidge

Policy Revision 2 (September 2002)

**Case ID No.** 41565

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101919025

**Media [Statute]** Water Quality

**Enf. Coordinator** Merrilee Hupp

### 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> )	4	20%
	Other written NOVs	0	0%
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)** 40%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for three months of self-reported effluent violations, one NOV with same/similar violations, and one order with denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

Screening Date 3-May-2011

Docket No. 2011-0665-MWD-E

PCW

Respondent City of Coolidge

Policy Revision 2 (September 2002)

Case ID No. 41565

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101919025

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1), 305.125(17), and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014751001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit the discharge monitoring reports ("DMRs") for the monthly monitoring periods ending January 31, 2010 through December 31, 2010, as documented during a record review conducted on April 11, 2011.

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	1%
Over 70% of the requirement was met.					

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 12 Number of violation days 432

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

Violation Base Penalty \$1,200

Twelve single events are 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 \$1,200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$1,680

This violation Final Assessed Penalty (adjusted for limits) \$1,680

## Economic Benefit Worksheet

**Respondent** City of Coolidge  
**Case ID No.** 41565  
**Reg. Ent. Reference No.** RN101919025  
**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-Feb-2010	31-Dec-2011	1.86	\$23	n/a	\$23
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$300	20-Feb-2010	18-May-2011	1.24	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost for updating the Facility's operational guidance and for conducting training to ensure reporting is done within the required timelines and to submit the 12 DMRs. Date required is the date the first DMR was due. Final dates are the date all 12 DMRs were received by TCEQ (May 18, 2011) and the date training is expected to be completed (December 31, 2011).

### 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

\$550

**TOTAL**

\$42

Screening Date 3-May-2011

Docket No. 2011-0665-MWD-E

PCW

Respondent City of Coolidge

Policy Revision 2 (September 2002)

Case ID No. 41565

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101919025

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0014751001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010, as documented during a record review conducted on April 11, 2011.

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	1%

Matrix Notes Over 70% of the requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 239

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

Violation Base Penalty \$100

One event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$140

This violation Final Assessed Penalty (adjusted for limits) \$140

## Economic Benefit Worksheet

**Respondent** City of Coolidge  
**Case ID No.** 41565  
**Reg. Ent. Reference No.** RN101919025  
**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)	\$50	1-Sep-2010	28-Apr-2011	0.65	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost for the submittal of the annual sludge report. The economic benefit for updating the Facility's operational guidance and for conducting training is covered in Violation No. 1. Date required is the date the annual report was due. Final date is the date the report was received by the TCEQ.

### 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**

\$2

# Compliance History

Customer/Respondent/Owner-Operator:	CN600510598	City of Coolidge	Classification: AVERAGE	Rating: 1.81
Regulated Entity:	RN101919025	LAGOON WWTP	Classification: AVERAGE	Site Rating: 3.03
ID Number(s):	WASTEWATER	EPA ID		TX0057045
	WASTEWATER	PERMIT		WQ0014751001
	WASTEWATER	EPA ID		TX0057045
Location:	APPROX 4500 FT NE OF INTX OF FM 73 AND FM 1951 IN LIMESTONE COUNTY TX.			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	May 03, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 03, 2006 to May 03, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Merrilee Hupp</u>	Phone:	<u>(512) 239-4490</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: 06/29/2007                      ADMINORDER 2006-1878-MWD-E  
 Classification: Major  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter D 305.65

Description: Failed to submit a permit application and obtain authorization for the discharge of wastewater into or adjacent to water in the state after expiration of TPDES Permit No. 10496001.  
 Classification: Moderate

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

Rqmt Prov Eff. Limit. & Monitoring Req. No. 1 PERMIT  
 Description: Failed to comply with five-day BOD limit of 30 mg/L in the months of November 2005 through March 2006.

- 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 | 10/11/2006 | (512536) |
| 2 | 02/22/2008 | (617287) |
| 3 | 10/30/2006 | (622146) |
| 4 | 02/13/2007 | (622147) |
| 5 | 10/30/2006 | (622148) |
| 6 | 10/30/2006 | (622149) |
| 7 | 03/14/2007 | (622150) |

8	10/30/2006	(622151)
9	10/30/2006	(622152)
10	04/16/2007	(622153)
11	10/30/2006	(622154)
12	10/30/2006	(622155)
13	10/30/2006	(622156)
14	07/16/2007	(622157)
15	10/30/2006	(622158)
16	12/05/2006	(622159)
17	07/26/2007	(622160)
18	10/30/2006	(622161)
19	10/30/2006	(622162)
20	09/11/2007	(622163)
21	10/30/2006	(622164)
22	09/28/2007	(622165)
23	10/30/2006	(622166)
24	10/30/2006	(622167)
25	10/23/2007	(622168)
26	10/30/2006	(622169)
27	11/21/2006	(622170)
28	12/03/2007	(622171)
29	01/18/2007	(622172)
30	12/20/2007	(622173)
31	10/30/2006	(622174)
32	01/18/2007	(622175)
33	03/13/2008	(637206)
34	02/29/2008	(673948)
35	02/06/2008	(673949)
36	07/23/2008	(692215)
37	07/30/2008	(713312)
38	07/30/2008	(713313)
39	07/30/2008	(713314)
40	07/30/2008	(713315)
41	07/30/2008	(713316)
42	08/28/2008	(713317)
43	01/20/2009	(752617)
44	01/20/2009	(752618)
45	01/20/2009	(752619)
46	01/30/2009	(752620)
47	05/14/2010	(827855)
48	06/07/2010	(832872)
49	06/07/2010	(832873)
50	06/07/2010	(832874)
51	06/07/2010	(832875)
52	06/07/2010	(832876)
53	06/07/2010	(832877)
54	06/07/2010	(832878)
55	06/07/2010	(832879)
56	06/07/2010	(832880)
57	06/07/2010	(832881)
58	06/07/2010	(832882)



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 COOLIDGE  
RN101919025**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0665-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 Coolidge ("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 facility located approximately 4,500 feet northeast of the intersection of Farm-to-Market Road 73 and Farm-to-Market Road 1951 in Limestone County, Texas (the "Facility").
2. The Facility is adjacent to any water in the state as defined in TEX. WATER CODE § 26.001(5).
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 April 26, 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 One Thousand Eight Hundred Twenty Dollars (\$1,820) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Four Hundred Fifty-

Six Dollars (\$1,456) of the administrative penalty and Three Hundred Sixty-Four Dollars (\$364) 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. On April 28, 2011, submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending January 31, 2010 through September 30, 2010 and the annual sludge report for the monitoring period ending July 31, 2010; and
  - b. On May 18, 2011, submitted the DMRs for the monitoring periods ending October 31, 2010, November 30, 2010, and December 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 failed to timely submit the DMRs for the monitoring periods ending January 31, 2010 through December 31, 2010, and the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 305.125(17), and 319.7(d) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014751001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions, as documented during a record review conducted on April 11, 2011.

### 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 Coolidge, Docket No. 2011-0665-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, conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0014751001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, 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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas, 76710-7826

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. 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.
7. 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.

8. 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

R. D. Hyle  
For the Executive Director

8/5/11  
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.

David Frazier  
Signature

6/21/11  
Date

David Frazier  
Name (Printed or typed)  
Authorized Representative of  
City of Coolidge

Mayor  
Title

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