

Executive Summary – Enforcement Matter – Case No. 44072
City of Mineral Wells
RN101610517
Docket No. 2012-0921-MLM-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:

MLM – WQ and MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Pollard Creek Plant, located southwest of Mineral Wells at the crossing of Pollard Creek by 22nd Street, Palo Pinto County

Type of Operation:

Wastewater treatment plant and associated collection system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 12, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,563

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$21,563

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: Major and Minor

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44072
City of Mineral Wells
RN101610517
Docket No. 2012-0921-MLM-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 13, 2012
Date(s) of NOE(s): April 27, 2012

Violation Information

1. Failed to obtain authorization to discharge storm water associated with industrial activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].
2. Failed to prevent the unauthorized discharge of wastewater from the collection system [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010585001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121(a)].
3. Failed to report all instances of non-compliance to the TCEQ [TPDES Permit No. WQ0010585001, Monitoring and Reporting Requirements No. 7 and 30 TEX. ADMIN. CODE § 305.125(1)].
4. Failed to sample the chlorine residual at the location specified in the permit [TPDES Permit No. WQ0010585001, Effluent Limitations and Monitoring Requirements No. 2 and 30 TEX. ADMIN. CODE § 319.5(a)].
5. Failed to comply with permitted effluent limits for ammonia nitrogen [TPDES Permit No. WQ0010585001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the Facility:

- a. By June 1, 2011, increased the air supply to the aeration basin and returned to compliance with permitted effluent limits;
- b. By January 25, 2012, implemented corrective measures in the collection system as shown below:
 - i. October 26, 2009, Southeast 17th Avenue at Southeast 21st Street: Checked mains for blockage and cleared blockage in main.
 - ii. October 26, 2009, East Hubbard at Northeast 27th Avenue: Rain diluted wastewater.

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iii. April 17, 2010, 1915 Southwest 2nd Avenue: Inspected for blockages and reinstalled manhole lid.

iv. April 17, 2010, Lincoln Avenue at Southeast 2nd: Cleared blockage, cleaned mains, removed grit buildup with vac truck.

v. April 17, 2010, South Oak Avenue at 15th Street: Cleaned area and cleaned main.

vi. April 17, 2010, 1902 Northwest 1st Avenue: Cleared blockage and cleaned upstream and downstream mains.

vii. April 18, 2010, Northwest 9th Street at Northwest 3rd Avenue: Cleared blockage and cleaned upstream and downstream mains.

viii. January 25, 2012, 100 Northeast 27th Avenue: Cleaned lines, pulled pumps at lift station and cleaned area.

ix. January 25, 2012, Southeast 15th Avenue at Southeast 21st Street: Cleaned lines, pulled pumps at lift station and cleaned area.

x. January 25, 2012, Southeast 17th Avenue at Southeast 21st Street: Cleaned lines, pulled pumps at lift station and cleaned area.

c. By March 15, 2012, began sampling chlorine residual at a location specified in the permit;

d. By May 4, 2012, updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished and to begin reporting all instances of non-compliance to the Regional Office and the TCEQ Enforcement Division; and

e. By May 8, 2012, submitted a Notice of Intent and obtained authorization to discharge storm water associated with industrial activities.

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

Executive Summary – Enforcement Matter – Case No. 44072

City of Mineral Wells

RN101610517

Docket No. 2012-0921-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jorge Ibarra, P.E., Enforcement Division,
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Lance Howerton, City Manager, City of Mineral Wells, P.O. Box 460,
Mineral Wells, Texas 76068

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Apr-2012	Screening	1-May-2012	EPA Due	
	PCW	4-May-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Mineral Wells
Reg. Ent. Ref. No.	RN101610517
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	44072	No. of Violations	1
Docket No.	2012-0921-MLM-E	Order Type	Findings
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**

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 four NOVs with same/similar violations, one NOV with dissimilar violations and three months of self-reported effluent violations.

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	\$0
Approx. Cost of Compliance	\$500

*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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 1-May-2012

Docket No. 2012-0921-MLM-E

PCW

Respondent City of Mineral Wells

Policy Revision 2 (September 2002)

Case ID No. 44072

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610517

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments 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%
<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) 37%

>> 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 four NOVs with same/similar violations, one NOV with dissimilar violations and three months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 1-May-2012

Docket No. 2012-0921-MLM-E

PCW

Respondent City of Mineral Wells

Policy Revision 2 (September 2002)

Case ID No. 44072

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610517

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System Permit No. WQ0010585001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits. Specifically, the ammonia nitrogen daily average was reported as 3.1 milligrams per liter ("mg/L") during the month of May 2011; the permitted limit is 3 mg/L.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 31

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDRP/Settlement

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance by June 1, 2011 for this violation.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,800

This violation Final Assessed Penalty (adjusted for limits) \$2,800

Economic Benefit Worksheet

Respondent City of Mineral Wells
Case ID No. 44072
Reg. Ent. Reference No. RN101610517
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	31-May-2011	1-Jun-2011	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to increase the air supply to the aeration basin and return to compliance with permitted effluent limits. Date required is the first date of non-compliance; and the 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 \$0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Apr-2012		
	PCW	4-May-2012	Screening	1-May-2012
		EPA Due		

RESPONDENT/FACILITY INFORMATION

Respondent	City of Mineral Wells		
Reg. Ent. Ref. No.	RN101610517		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44072	No. of Violations	1
Docket No.	2012-0921-MLM-E	Order Type	Findings
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*

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 four NOV's with same/similar violations, one NOV with dissimilar violations and three months of self-reported effluent violations.

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	\$167
Approx. Cost of Compliance	\$7,000

*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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 1-May-2012
Respondent City of Mineral Wells
Case ID No. 44072
Reg. Ent. Reference No. RN101610517
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-0921-MLM-E

PCW

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 NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%

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) 37%

>> **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 four NOVs with same/similar violations, one NOV with dissimilar violations and three months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 1-May-2012

Docket No. 2012-0921-MLM-E

PCW

Respondent City of Mineral Wells

Policy Revision 2 (September 2002)

Case ID No. 44072

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610517

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System Permit No. WQ0010585001, Permit Conditions No. 2.g., 30 Tex. Admin. Code § 305.125(4) and (5), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the period between September 23, 2009 and August 31, 2011, the Respondent reported seven sanitary sewer system overflows, as shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 7

174 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,000

Seven quarterly event are recommended, one for each unauthorized discharge that occurred before September 1, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$1,750

Before NOV NOV to EDRP/Settlement

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance by April 18, 2010 for this violation.

Violation Subtotal \$5,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$167

Violation Final Penalty Total \$7,840

This violation Final Assessed Penalty (adjusted for limits) \$7,840

Economic Benefit Worksheet

Respondent City of Mineral Wells
Case ID No. 44072
Req. Ent. Reference No. RN101610517
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
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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)	\$7,000	26-Oct-2009	18-Apr-2010	0.48	\$167	n/a	\$167

Notes for DELAYED costs

Estimated cost to repair/replace any damaged components of the collection system and to chemically treat and cleanup the unauthorized discharges. Date Required is the date of the first unauthorized discharge and the 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

\$7,000

TOTAL

\$167



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Apr-2012	Screening	1-May-2012	EPA Due	
	PCW	4-May-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Mineral Wells		
Reg. Ent. Ref. No.	RN101610517		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	44072	No. of Violations	1	
Docket No.	2012-0921-MLM-E	Order Type	Findings	
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	\$25,000

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

Culpability Enhancement **Subtotal 4**

Notes

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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 1-May-2012

Docket No. 2012-0921-MLM-E

PCW

Respondent City of Mineral Wells

Policy Revision 3 (September 2011)

Case ID No. 44072

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101610517

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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>)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%

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) 37%

>> 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 four NOVs with same/similar violations, one NOV with dissimilar violations and three months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 37%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 37%

Screening Date 1-May-2012
Respondent City of Mineral Wells
Case ID No. 44072
Reg. Ent. Reference No. RN101610517
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-0921-MLM-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System Permit No. WQ0010585001, Effluent Limitations and Monitoring Requirements No. 2 and 30 Tex. Admin. Code § 319.5(a)

Violation Description Failed to sample the chlorine residual at the location specified in the permit. Specifically, the Respondent was measuring chlorine residual at a location that does not provide at least 20 minutes detention time based on peak flow as documented in the March 13, 2012 investigation.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes Failure to sample chlorine residual at the location specified in the permit will or could result in the release of insignificant amounts of pollutants as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes The Respondent achieved compliance by March 15, 2012 for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Mineral Wells
Case ID No. 44072
Req. Ent. Reference No. RN101610517
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	13-Mar-2012	15-Mar-2012	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to begin sampling chlorine residual at the location specified in the permit. Date Required is the date the violation was documented and the 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

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-Apr-2012	Screening	1-May-2012	EPA Due	
	PCW	4-May-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Mineral Wells
Reg. Ent. Ref. No.	RN101610517
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44072	No. of Violations	3
Docket No.	2012-0921-MLM-E	Order Type	Findings
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	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **37.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,775**

Notes: Enhancement for four NOVs with same/similar violations, one NOV with dissimilar violations and three 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** **\$1,312**

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

Total EB Amounts \$15
Approx. Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,963**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$8,963**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,963**

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

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$8,963**

Screening Date 1-May-2012

Docket No. 2012-0921-MLM-E

PCW

Respondent City of Mineral Wells

Policy Revision 3 (September 2011)

Case ID No. 44072

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101610517

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

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>)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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%

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) 37%

>> **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 four NOVs with same/similar violations, one NOV with dissimilar violations and three months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 37%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 37%

Screening Date 1-May-2012
Respondent City of Mineral Wells
Case ID No. 44072
Reg. Ent. Reference No. RN101610517
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-0921-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit.

Base Penalty \$25,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 49 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two monthly events are recommended from the March 13, 2012 investigation date to the May 1, 2012 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes The Respondent achieved compliance by May 8, 2012 for this violation.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$3,175

This violation Final Assessed Penalty (adjusted for limits) \$3,175

Economic Benefit Worksheet

Respondent City of Mineral Wells
Case ID No. 44072
Reg. Ent. Reference No. RN101610517
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,500	13-Mar-2012	8-May-2012	0.15	\$12	n/a	\$12
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a Storm Water Pollution Prevention Plan and obtain authorization to discharge storm water associated with industrial activities. Date required is the investigation date and the 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

\$1,500

TOTAL

\$12

Screening Date 1-May-2012

Docket No. 2012-0921-MLM-E

PCW

Respondent City of Mineral Wells

Policy Revision 3 (September 2011)

Case ID No. 44072

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101610517

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0010585001, Monitoring and Reporting Requirements No. 7 and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to report all instances of non-compliance to the TCEQ. Specifically, the Respondent is not reporting unauthorized discharges that are able to be cleaned up and returned to the collection system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

49 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$125

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

Notes The Respondent achieved compliance by May 4, 2012 for this violation.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,588

This violation Final Assessed Penalty (adjusted for limits) \$1,588

Economic Benefit Worksheet

Respondent City of Mineral Wells
Case ID No. 44072
Req. Ent. Reference No. RN101610517
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	\$500	13-Mar-2012	4-May-2012	0.14	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished and to begin reporting all instances of non-compliance to the Regional Office and the TCEQ Enforcement Division. Date required is the investigation date and the 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

\$4

Screening Date 1-May-2012
Respondent City of Mineral Wells
Case ID No. 44072
Reg. Ent. Reference No. RN101610517
Media [Statute] Water Quality
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-0921-MLM-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Violation Number 3

Rule Cite(s) TPDES Permit No. WQ0010585001, Permit Conditions No. 2.g., 30 Tex. Admin. Code § 305.125(4) and (5), and Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the period between September 1, 2011 and March 13, 2012, the Respondent reported three sanitary sewer system overflows as shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

3 **Number of violation days**

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended, one for each unauthorized discharge that occurred after September 1, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$937

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by January 25, 2012 for this violation.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,201

This violation Final Assessed Penalty (adjusted for limits) \$4,201

Economic Benefit Worksheet

Respondent City of Mineral Wells
Case ID No. 44072
Req. Ent. Reference No. RN101610517
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)	\$3,000	25-Jan-2012	25-Jan-2012	0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to repair/replace any damaged components of the collection system and to chemically treat and cleanup the unauthorized discharges. Date Required is the date of the first unauthorized discharge and the 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	\$3,000	TOTAL	\$0
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City of Mineral Wells
 RN101610517, Case No. 44072, TPDES Permit No. WQ0010585001
 Docket No. 2012-0921-MLM-E

UNAUTHORIZED DISCHARGE TABLE			
Date	Location	Amount Discharged (gallons)	Description
October 26, 2009	Southeast 17 th Avenue at Southeast 21 st St.	8,000	Inflow/Infiltration (“I/I”) overflow of manhole.
October 26, 2009	East Hubbard at Northeast 27 th Avenue	1,000	I/I overflow of manhole.
April 17, 2010	1915 Southwest 2nd Avenue	2,000	Heavy rainfall during short period caused overflow of manhole.
April 17, 2010	Lincoln Avenue at Southeast 2 nd St.	2,500	Blockage of main due to heavy rainfall during short period.
April 17, 2010	South Oak Avenue at Southeast 15 th St.	600	Blockage of main due to heavy rainfall during short period.
April 17, 2010	1902 Northwest 1 st Avenue	8,000	Blockage of main due to heavy rainfall during short period.
April 18, 2010	Northwest 9 th St. at Northwest 3 rd Avenue	2,500	Blockage of main due to heavy rainfall during short period.
January 25, 2012	100 Northeast 27 th Avenue	9,000	Street flooding due to heavy rainfall in the area reduced pump capacity at the Facility due to debris in the lift station pumps, causing the manhole to overflow.
January 25, 2012	Southeast 15 th Avenue at Southeast 21 st St.	3,600	Street flooding due to heavy rainfall in the area reduced pump capacity at the Facility due to debris in the lift station pumps, causing the manhole to overflow.
January 25, 2012	Southeast 17 th Avenue at Southeast 21 st St.	9,000	Street flooding due to heavy rainfall in the area reduced pump capacity at the Facility due to debris in the lift station pumps, causing the manhole to overflow.

Compliance History Report

Customer/Respondent/Owner-Operator: CN600484059 City of Mineral Wells Classification: Rating: 2.58
AVERAGE

Regulated Entity: RN101610517 POLLARD CREEK PLANT Classification: Site Rating: 0.45
AVERAGE

ID Number(s): WASTEWATER PERMIT WQ0010585001
WASTEWATER EPA ID TX0047414
WASTEWATER LICENSING LICENSE WQ0010585001

Location: Located southwest of the City of Mineral Wells at the crossing of Pollard Creek
by 22nd Street in Palo Pinto County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: May 01, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 01, 2007 to May 01, 2012

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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/25/2012	(1001115)
2	05/21/2007	(580693)
3	06/26/2007	(580695)
4	07/25/2007	(580697)
5	10/18/2007	(597642)
6	11/20/2007	(600796)
7	08/16/2007	(608051)
8	09/11/2007	(608052)
9	09/11/2007	(608053)
10	02/08/2008	(617711)
11	10/19/2007	(621602)
12	11/19/2007	(621603)
13	12/18/2007	(621604)
14	12/10/2007	(621605)
15	05/16/2008	(691820)
16	03/17/2008	(691821)

17	04/22/2008	(691822)
18	05/19/2008	(691823)
19	05/01/2008	(691824)
20	05/09/2008	(699446)
21	06/13/2008	(712788)
22	08/11/2008	(712789)
23	09/15/2008	(712790)
24	09/11/2008	(712791)
25	01/16/2009	(723399)
26	10/15/2008	(728983)
27	11/20/2008	(728984)
28	12/09/2008	(728985)
29	02/05/2009	(752134)
30	03/06/2009	(752135)
31	04/17/2009	(752136)
32	05/12/2009	(769867)
33	06/04/2009	(769868)
34	11/13/2009	(776945)
35	02/03/2010	(809122)
36	08/11/2009	(809123)
37	09/16/2009	(809124)
38	10/08/2009	(809125)
39	11/17/2009	(809126)
40	12/10/2009	(809127)
41	11/09/2009	(809128)
42	03/02/2010	(832487)
43	04/01/2010	(832488)
44	05/17/2010	(832489)
45	06/03/2010	(846768)
46	06/03/2010	(861292)
47	08/11/2010	(867446)
48	09/07/2010	(874468)
49	09/02/2010	(882049)
50	11/11/2010	(888515)
51	12/14/2010	(896856)
52	01/05/2011	(902814)
53	02/15/2011	(909655)
54	03/09/2011	(916876)
55	04/18/2011	(926649)
56	06/09/2009	(926650)
57	05/10/2011	(938590)
58	06/20/2011	(945962)
59	03/23/2011	(953217)
60	08/16/2011	(959858)
61	09/09/2011	(965899)
62	10/12/2011	(971941)
63	11/16/2011	(978107)
64	12/14/2011	(984877)

65 01/13/2012 (991166)
 66 04/27/2012 (994865)
 67 02/17/2012 (998531)

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

Date: 05/31/2007 (580695) CN600484059
 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: 06/22/2007 (565226) CN600484059
 Self Report? NO Classification: Minor
 Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)
 WQ0010585-001 PERMIT
 Description: Failure to notify the TCEQ of an unauthorized discharge of wastewater from the sanitary sewer collection system.

Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 WQ0010585-001 PERMIT
 Description: Failure to prevent the unauthorized discharge of wastewater from the sanitary sewer collection system.

Date: 06/30/2007 (580697) CN600484059
 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: 10/19/2007 (597642) CN600484059
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 WQ0010585-001 PERMIT
 Description: Failure to prevent the unauthorized discharge of wastewater from the sanitary sewer collection system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ10585-001 PERMIT
 Description: Failure to comply with the permitted effluent permit limits.

Date: 05/09/2008 (699446) CN600484059
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 11/13/2009 (776945) CN600484059
 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)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(2)
 WQ0010585-001 PERMIT
 Description: Failure to prevent unauthorized discharges from the wastewater plant or collection system.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 WQ0010585-001 PERMIT
 Description: Failure to comply with the chlorine residual and dechlorinate permit effluent limitations and testing requirements.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

WQ0010585-001 PERMIT
 Description: Failure to annually calibrate the secondary flow measuring device.
 Date: 05/31/2011 (945962) CN600484059
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 04/25/2012 (1001115) CN600484059
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 217, SubChapter C 217.63(b)
 30 TAC Chapter 217, SubChapter C 217.63(c)
 WQ0010585-001 PERMIT
 Description: Failure to ensure lift stations meet TCEQ design requirements.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 WQ0010585-001 PERMIT
 Description: Failure to properly operate and maintain the collection system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 217, SubChapter M 217.330
 30 TAC Chapter 317 317.4(a)(8)
 Description: Failure to provide adequate backflow prevention assemblies (RPZs) at lift stations
 when needed.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(b)(6)
 30 TAC Chapter 317 317.3(b)(6)(A)
 Description: Failure to comply with lift station design requirements.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.3(e)
 Description: Failure to maintain adequate safeguards to prevent the discharge of untreated or
 inadequately treated wastes during electrical power failures.

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 MINERAL WELLS
RN101610517**

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

**AGREED ORDER
DOCKET NO. 2012-0921-MLM-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 Mineral Wells (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 and associated collection system located southwest of Mineral Wells at the crossing of Pollard Creek by 22nd Street in Palo Pinto 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. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or

activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.

3. During an investigation on March 13, 2012, TCEQ staff documented that the Respondent did not obtain authorization to discharge storm water associated with industrial activities under the Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit.
4. During an investigation on March 13, 2012, TCEQ staff documented that the Respondent did not prevent the unauthorized discharge of wastewater from the collection system. Specifically, during the period between September 23, 2009 and March 13, 2012, the Respondent reported ten sanitary sewer system overflows as shown in the table below:

UNAUTHORIZED DISCHARGE TABLE			
Date	Location	Amount Discharged (gallons)	Description
October 26, 2009	Southeast 17 th Avenue at Southeast 21 st Street	8,000	Inflow/Infiltration ("I/I") overflow of manhole.
October 26, 2009	East Hubbard at Northeast 27 th Avenue	1,000	I/I overflow of manhole.
April 17, 2010	1915 Southwest 2nd Avenue	2,000	Heavy rainfall during short period caused overflow of manhole.
April 17, 2010	Lincoln Avenue at southeast 2 nd Street	2,500	Blockage of main due to heavy rainfall during short period.
April 17, 2010	South Oak Avenue at Southeast 15 th Street	600	Blockage of main due to heavy rainfall during short period.
April 17, 2010	1902 Northwest 1 st Avenue	8,000	Blockage of main due to heavy rainfall during short period.
April 18, 2010	Northwest 9 th Street at northwest 3 rd Avenue	2,500	Blockage of main due to heavy rainfall during short period.
January 25, 2012	100 Northeast 27 th Avenue	9,000	Street flooding due to heavy rainfall in the area reduced pump capacity at the Facility due to debris in the lift station pumps, causing the manhole to overflow.
January 25, 2012	Southeast 15 th Avenue at Southeast 21 st Street	3,600	Street flooding due to heavy rainfall in the area reduced pump capacity at the Facility due to debris in the lift station pumps, causing the manhole to overflow.
January 25, 2012	Southeast 17 th Avenue at Southeast 21 st Street	9,000	Street flooding due to heavy rainfall in the area reduced pump capacity at the Facility due to debris in the lift station pumps, causing the manhole to overflow.

5. During an investigation on March 13, 2012, TCEQ staff documented that the Respondent did not report all instances of non-compliance to the TCEQ. Specifically, the Respondent is not reporting unauthorized discharges that are able to be cleaned up and returned to the collection system.
6. During an investigation on March 13, 2012, TCEQ staff documented that the Respondent did not sample chlorine residual at the location specified in the permit. Specifically, the Respondent was measuring chlorine residual at a location that does not provide at least 20 minutes detention time based on peak flow.
7. During an investigation on March 13, 2012, TCEQ staff documented that the Respondent did not comply with permitted effluent limits. Specifically, the ammonia nitrogen daily average was reported as 3.1 milligrams per liter ("mg/L") during the month of May 2011, the permitted limit is 3 mg/L.
8. The Respondent received notice of the violations on May 2, 2012.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By June 1, 2011, increased the air supply to the aeration basin and returned to compliance with permitted effluent limits;
 - b. By January 25, 2012, implemented corrective measures in the collection system as shown in the table below:

CORRECTIVE ACTION TABLE		
Date	Location	Corrective Action Taken
October 26, 2009	Southeast 17 th Avenue at Southeast 21 st Street	Checked mains for blockage and cleared blockage in main.
October 26, 2009	East Hubbard at Northeast 27 th Avenue	Rain diluted wastewater.
April 17, 2010	1915 Southwest 2nd Avenue	Inspected for blockages and reinstalled manhole lid.
April 17, 2010	Lincoln Avenue at Southeast 2 nd	Cleared blockage, cleaned mains, removed grit buildup with vac truck.
April 17, 2010	South Oak Avenue at 15 th Street	Cleaned area and cleaned main.
April 17, 2010	1902 Northwest 1 st Avenue	Cleared blockage and cleaned upstream and downstream mains.
April 18, 2010	Northwest 9 th Street at Northwest 3 rd Avenue	Cleared blockage and cleaned upstream and downstream mains.
January 25, 2012	100 Northeast 27 th Avenue	Cleaned lines, pulled pumps at lift station and cleaned area.
January 25, 2012	Southeast 15 th Avenue at Southeast 21 st Street	Cleaned lines, pulled pumps at lift station and cleaned area.
January 25, 2012	Southeast 17 th Avenue at Southeast 21 st Street	Cleaned lines, pulled pumps at lift station and cleaned area.

- c. By March 15, 2012, began sampling chlorine residual at a location specified in the permit;
- d. By May 4, 2012, updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished and to begin reporting all instances of non-compliance to the Regional Office and the TCEQ Enforcement Division; and
- e. By May 8, 2012, submitted a Notice of Intent and obtained authorization to discharge storm water associated with industrial activities.

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 obtain authorization to discharge storm water associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on March 13, 2012.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to prevent the unauthorized discharge of wastewater from the collection system, in violation of TPDES Permit No. WQ0010585001, Permit Conditions No. 2.g., 30 TEX. ADMIN. CODE § 305.125(4) and (5), and TEX. WATER CODE § 26.121(a).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to report all instances of non-compliance to the TCEQ, in violation of TPDES Permit No. WQ0010585001, Monitoring and Reporting Requirements No. 7 and 30 TEX. ADMIN. CODE § 305.125(1), as documented during an investigation conducted on March 13, 2012.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to sample the chlorine residual at the location specified in the permit, in violation of TPDES Permit No. WQ0010585001, Effluent Limitations and Monitoring Requirements No. 2 and 30 TEX. ADMIN. CODE § 319.5(a).
6. As evidenced by Findings of Fact No. 7, the Respondent failed to comply with permitted effluent limits, in violation of TPDES Permit No. WQ0010585001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
7. 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.
8. An administrative penalty in the amount of Twenty-One Thousand Five Hundred Sixty-Three Dollars (\$21,563) 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 Twenty-One Thousand Five Hundred Sixty-Three Dollar (\$21,563) 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 Twenty-One Thousand Five Hundred Sixty-Three Dollars (\$21,563) as set forth in Section II, Paragraph 8 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 Mineral Wells, Docket No. 2012-0921-MLM-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 Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

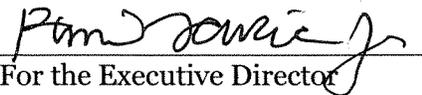
affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

12/7/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Mineral Wells. I am authorized to agree to the attached Agreed Order on behalf of the City of Mineral Wells, 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 Mineral Wells waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

August 8, 2012
Date

Lance Howerton
Name (Printed or typed)
Authorized Representative of
City of Mineral Wells

City Manager
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.