

Executive Summary – Enforcement Matter – Case No. 48948
City of De Leon
RN101920569
Docket No. 2014-0959-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of De Leon WWTP, located approximately 1,000 feet south of State Highway 6 and 4,000 feet east of State Highway 16, east of De Leon, Comanche 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: December 19, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,001

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,251

Total Due to General Revenue: \$13,750

Payment Plan: 11 payments of \$1,250 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 48948
City of De Leon
RN101920569
Docket No. 2014-0959-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: May 28, 2014
Date(s) of NOE(s): June 17, 2014

Violation Information

Failed to comply with permitted effluent limits for pH, ammonia nitrogen, *Escherichia coli*, dissolved oxygen, 5-day biochemical oxygen demand, and 5-day carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010078001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By August 31, 2013, the Respondent repaired the feed lines in the chemical room and returned to compliance with all permitted effluent limits at the Facility.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Had Darling, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2520; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Toby Hight, Mayor, City of De Leon, P.O. Box 318, De Leon, Texas 76444
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	23-Jun-2014	Screening	7-Jul-2014	EPA Due	
	PCW	10-Jul-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of De Leon
Reg. Ent. Ref. No.	RN101920569
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	48948	No. of Violations	3
Docket No.	2014-0959-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Had Darling
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$20,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$4,999
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$210
Estimated Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,001
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$15,001

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,001
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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	\$15,001
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Screening Date 7-Jul-2014

Docket No. 2014-0959-MWD-E

PCW

Respondent City of De Leon

Policy Revision 4 (April 2014)

Case ID No. 48948

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920569

Media [Statute] Water Quality

Enf. Coordinator Had Darling

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>)	0	0%
	Other written NOVs	0	0%
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 judgments 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) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 7-Jul-2014
Respondent City of De Leon
Case ID No. 48948
Reg. Ent. Reference No. RN101920569
Media [Statute] Water Quality
Enf. Coordinator Had Darling

Docket No. 2014-0959-MWD-E

PCW

Policy Revision 4 (April 2014)
 PCW Revision March 26, 2014

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010078001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on May 28, 2014, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			30.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended for the months of May 2013 and June 2013.

Good Faith Efforts to Comply

25.0%

Reduction \$3,750

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

Notes: The Respondent achieved compliance on August 31, 2013.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$210

Violation Final Penalty Total \$11,250

This violation Final Assessed Penalty (adjusted for limits) \$11,250

Economic Benefit Worksheet

Respondent City of De Leon
Case ID No. 48948
Reg. Ent. Reference No. RN101920569
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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	31-Mar-2013	31-Aug-2013	0.42	\$210	\$0	\$210

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to repair the feed lines in the chemical room. Date required is the initial date of noncompliance. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$210

Screening Date 7-Jul-2014

Docket No. 2014-0959-MWD-E

PCW

Respondent City of De Leon

Policy Revision 4 (April 2014)

Case ID No. 48948

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920569

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010078001, Interim Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on May 28, 2014, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of July 2013.

Good Faith Efforts to Comply

25.0%

Reduction \$937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on August 31, 2013.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,813

This violation Final Assessed Penalty (adjusted for limits) \$2,813

Economic Benefit Worksheet

Respondent City of De Leon
Case ID No. 48948
Reg. Ent. Reference No. RN101920569
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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 7-Jul-2014

Docket No. 2014-0959-MWD-E

PCW

Respondent City of De Leon

Policy Revision 4 (April 2014)

Case ID No. 48948

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101920569

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010078001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on May 28, 2014, and shown in the attached violation 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	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate five-day carbonaceous biochemical oxygen demand and five-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. pH was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended for the quarter containing the months of March 2013 and April 2013.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Notes

The Respondent achieved compliance on August 31, 2013.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$938

This violation Final Assessed Penalty (adjusted for limits) \$938

Economic Benefit Worksheet

Respondent City of De Leon
Case ID No. 48948
Reg. Ent. Reference No. RN101920569
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

City of De Leon
Wastewater Treatment Facility
TPDES Permit No. WQ0010078001
Docket No. 2014-0959-MWD-E

Effluent Violation Table					
Permitted Effluent Limits	Monitoring Period				
	March 2013	April 2013	May 2013	June 2013	July 2013
CBOD ₅ Daily Average Concentration Limit = 30 mg/L	N/A	34.2	36.75	c	c
BOD ₅ Daily Average Concentration Limit = 30 mg/L	44	N/A	N/A	N/A	N/A
<i>Escherichia coli</i> Daily Average Limit = 126 CFU/100 mL	c	c	1,234.98	2,420	1,220
<i>Escherichia coli</i> Single Grab Maximum Limit = 394 CFU/100 mL	c	c	24,196	2,420	2,420
Ammonia Nitrogen Daily Average Concentration Limit = 5 mg/L	c*	c	24.66	14.83	c
Ammonia Nitrogen Single Grab Maximum Concentration Limit = 15 mg/L	c*	c	37.9	34.4	c
Ammonia Nitrogen Daily Average Loading Limit = 12 lbs/day	c*	c	48.61	c	c
Dissolved Oxygen Minimum Concentration Limit = 4.0 mg/L	c	c	3.5	3.3	c
pH Maximum Limit = 9 SU	c	9.7	9.9	c	c

CBOD₅ = five-day carbonaceous biochemical oxygen demand

BOD₅ = five-day biochemical oxygen demand

mg/L = milligrams per liter

c = compliant

SU = standard units

CFU/100 mL = colony forming units per 100 milliliters

lbs/day = pounds per day

N/A = parameter not applicable during monitoring period

c* = no limit, reporting requirement only



Compliance History Report

PUBLISHED Compliance History Report for CN600244362, RN101920569, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN600244362, City of De Leon	Classification:	SATISFACTORY	Rating:	2.55
Regulated Entity:	RN101920569, CITY OF DE LEON WWTP	Classification:	SATISFACTORY	Rating:	2.55
Complexity Points:	7	Repeat Violator:	NO		
CH Group:	08 - Sewage Treatment Facilities				
Location:	Approximately 1,000 feet south of State Highway 6 and 4,000 feet east of State Highway 16, east of De Leon, Comanche County, Texas				
TCEQ Region:	REGION 03 - ABILENE				
ID Number(s):					
WASTEWATER PERMIT	WQ0010078001	WASTEWATER EPA ID	TX0054844		
WASTEWATER LICENSING LICENSE	WQ0010078001				
Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	August 12, 2014				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	August 12, 2009 to August 12, 2014				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Herbert Darling			Phone:	(512) 239-2520

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	August 27, 2009	(810003)
Item 2	October 26, 2009	(810005)
Item 3	December 23, 2009	(810007)
Item 4	January 25, 2010	(810008)
Item 5	May 26, 2010	(832766)
Item 6	June 21, 2010	(846861)
Item 7	September 22, 2010	(867582)
Item 8	September 27, 2010	(874564)

Item 9	November 30, 2010	(888619)
Item 10	December 20, 2010	(896969)
Item 11	January 24, 2011	(902896)
Item 12	April 25, 2011	(927046)
Item 13	May 20, 2011	(938693)
Item 14	June 24, 2011	(946062)
Item 15	July 25, 2011	(953320)
Item 16	August 18, 2011	(959960)
Item 17	March 29, 2012	(1004160)
Item 18	April 26, 2012	(1017097)
Item 19	July 30, 2012	(1032224)
Item 20	November 06, 2012	(1064320)
Item 21	February 13, 2013	(1080429)
Item 22	March 11, 2013	(1090002)
Item 23	September 17, 2013	(1130220)
Item 24	October 21, 2013	(1135993)
Item 25	November 13, 2013	(1141368)
Item 26	December 13, 2013	(1147833)
Item 27	January 13, 2014	(1153899)
Item 28	February 12, 2014	(1161217)
Item 29	March 11, 2014	(1167870)
Item 30	April 08, 2014	(1175015)
Item 31	May 09, 2014	(1181208)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF DE LEON
RN101920569**

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

**AGREED ORDER
DOCKET NO. 2014-0959-MWD-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of De Leon ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 1,000 feet south of State Highway 6 and 4,000 feet east of State Highway 16, east of De Leon, Comanche County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review conducted on May 28, 2014, TCEQ staff documented the following from self-reported discharge monitoring reports (“DMRs”):

Effluent Violation Table					
Permitted Effluent Limits	Monitoring Period				
	March 2013	April 2013	May 2013	June 2013	July 2013
CBOD ₅ Daily Average Concentration Limit = 30 mg/L	N/A	34.2	36.75	c	c
BOD ₅ Daily Average Concentration Limit = 30 mg/L	44	N/A	N/A	N/A	N/A
<i>Escherichia coli</i> Daily Average Limit = 126 CFU/100 mL	c	c	1,234.98	2,420	1,220
<i>Escherichia coli</i> Single Grab Maximum Limit = 394 CFU/100 mL	c	c	24,196	2,420	2,420
Ammonia Nitrogen Daily Average Concentration Limit = 5 mg/L	c*	c	24.66	14.83	c
Ammonia Nitrogen Single Grab Maximum Concentration Limit = 15 mg/L	c*	c	37.9	34.4	c
Ammonia Nitrogen Daily Average Loading Limit = 12 lbs/day	c*	c	48.61	c	c
Dissolved Oxygen Minimum Concentration Limit = 4.0 mg/L	c	c	3.5	3.3	c
pH Maximum Limit = 9 SU	c	9.7	9.9	c	c

CBOD₅ = five-day carbonaceous biochemical oxygen demand
 BOD₅ = five-day biochemical oxygen demand
 mg/L = milligrams per liter
 c = compliant
 SU = standard units
 CFU/100 mL = colony forming units per 100 milliliters
 lbs/day = pounds per day
 N/A = parameter not applicable during monitoring period
 c* = no limit, reporting requirement only

4. The Respondent received notice of the violations on June 19, 2014.

5. The Executive Director recognizes that by August 31, 2013, the Respondent repaired the feed lines in the chemical room and returned to compliance with all permitted effluent limits at the Facility.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010078001, Interim Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6.
3. 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.
4. An administrative penalty in the amount of Fifteen Thousand One Dollars (\$15,001) 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 One Thousand Two Hundred Fifty-One Dollars (\$1,251) of the administrative penalty. The remaining amount of Thirteen Thousand Seven Hundred Fifty Dollars (\$13,750) of the administrative penalty shall be payable in 11 monthly payments of One Thousand Two Hundred Fifty Dollars (\$1,250) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Fifteen Thousand One Dollars (\$15,001) as set forth in Section II, Paragraph 4 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 De Leon, Docket No. 2014-0959-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.

8. 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.
9. 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

3/9/15
Date

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

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

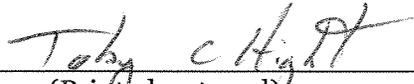
In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

11-13-14

Date



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

Mayer

Title

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