

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2003-0116-MLM-E TCEQ ID NO.: RN102075397 CASE NO.: 10506
RESPONDENT NAME: THE CITY OF WINFIELD**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Wastewater treatment plant, approximately 400 feet north of Interstate 30 access road and 1500 feet west of Farm-to-Market Road 1734 and Public water supply, Spur 185, Winfield, Titus County

TYPE OF OPERATION: Wastewater treatment plant and public water supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facilities.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 10, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053

Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Audra Ruble, Air Enforcement Section, MC R-14, (361) 825-3126

TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174

Respondent: The Honorable John Walton, Mayor of The City of Winfield, P.O. Box 98, Winfield, Texas 75493

Respondent's Attorney: Not represented by counsel.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: September 25, 2002, September 27, 2002, December 19, 2002, January 14, 2003, January 27, 2003, February 12, 2003, April 1, 2003 and November 5, 2003</p> <p>Dates of NOV/NOEs Relating to this Case: November 5, 2002 (NOV), January 17, 2003 and June 10, 2003 (NOEs)</p> <p>Background Facts:</p> <p>The Litigation Division filed the EDPRP on May 11, 2004. This case was referred to SOAH and there was a preliminary hearing. After discussions with the Respondent and before the evidentiary hearing, the Respondent agreed to the proposed Agreed Order and the case was remanded from SOAH.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <p>1. Failed to submit the discharge monitoring reports ("DMRs") for the months of September 2001 through November 2002 [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d), TCEQ Pollution Discharge Elimination System ("TPDES") Permit No. 12146-001 Monitoring and Reporting Requirement No. 1].</p> <p>2. Failed to submit an annual sludge report [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit 12146-001 Section III Reporting Requirements].</p>	<p>Total Assessed: \$16,160</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$449.20/\$15,710.80</p> <p>The Respondent has paid \$449.20 of the administrative penalty. The remaining amount of \$15,710.80 of the administrative penalty shall be payable in 35 monthly payments of \$448.88 each.</p> <p>Site Compliance History Classification: (PWS) N/A</p> <p>Site Compliance History Classification: (WWTP) <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: A Finding Order is justified because the nature and number of violations amounted to a significant deviation from the standards common in the industry.</p>	<p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days:</p> <p>a. Submit all delinquent DMRs, TPDES Permit No. 12146-001, Monitoring and Reporting Requirements No. 1; and b. Submit the annual sludge report for fiscal year 2002, TPDES Permit No. 12146-001, Section III Reporting Requirement.</p> <p>2. Within 45 days, submit written certification of compliance with Ordering Provision No. 1.</p> <p>3. Within 60 days:</p> <p>a. Conduct an annual inspection of the water storage tanks, as required; b. Have all backflow prevention test results, including the school and the WWTP available for review; c. Have service agreement records available for review; d. Have chlorine residual test records available for review; e. Have customer service inspection records for the new convenience store that was under construction available for review; f. Have a certified operator holding a valid Grade D or higher Ground Water/Surface Water/Distribution Operator's Certificate; g. Develop a site sampling plan for the collection of bacteriological samples; h. Have all monthly operations records available for review; i. Have a distribution system map available for review; and j. Develop a plant operations manual.</p> <p>4. Within 90 days:</p> <p>a. Submit written certification of compliance with the effluent limits of TPDES Permit No. 12146-001; and b. Submit written certification of compliance with Ordering Provision No. 3.</p>

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to comply with permitted discharge limitations for the months of December 2002, January 2003, February 2003, March 2003, May 2003, July 2003, August 2003, and September 2003 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit 12146-001, Final Effluent Limitations and Monitoring Requirements].</p> <p>4. Failed to comply with water storage tank annual inspection requirements [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].</p> <p>5. Failed to comply with the requirement to have back flow prevention test results for a school and water treatment plan available for review [30 TEX. ADMIN. CODE § 290.44(h)(4)(C)].</p> <p>6. Failed to comply with the requirement to have service agreement records available for review [30 TEX. ADMIN. CODE § 290.46(i)].</p> <p>7. Failed to have chlorine residual test records available for review [30 TEX. ADMIN. CODE § 290.110(c)(5)(A)].</p> <p>8. Failed to have customer service inspection records for a convenience store under construction available for review [30 TEX. ADMIN. CODE § 290.46(f)(3)(E)(iv)].</p> <p>9. Failed to have a certified operator holding a valid Grade D or higher Ground Water/Surface Water/Distribution Operator's Certificate [30 TEX. ADMIN. CODE § 290.46(e)(3)(A)].</p> <p>10. Failed to develop a site sampling plan for the collection of bacteriological samples [30 TEX. ADMIN. CODE § 290.109(c)(1)(B)].</p> <p>11. Failed to have records of monthly operations available for review [30 TEX. ADMIN. CODE § 290.46(f)].</p> <p>12. Failed to have a distribution map available for review [30 TEX. ADMIN. CODE § 290.46(n)(2)].</p> <p>13. Failed to have a plant operations manual [30 TEX. ADMIN. CODE § 290.42(k)].</p>		

Penalty Calculation Worksheet (PCW)



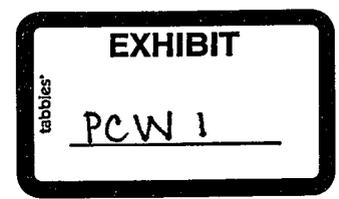
Policy Revision 2 (09/02)

PCW Revision 11/15/02

DATES			
PCW	23-Apr-2003	Screening	17-Mar-2003
		Priority Due	27-Apr-2003
		EPA Due	
RESPONDENT INFORMATION			
Respondent	City of Winfield		
Respondent/Site ID No(s)	Public Water Supply Id.No. 2250003		
Facility/Site Region	5 - Tyler	Major/Minor Source	Minor
CASE INFORMATION			
Enf./Case ID No(s)	Enf. ID No. 18953 Case No. 1		
Docket No.	2003-0116-MLM-E	No. Violations	5
Case Priority	3	Order Type	Findings
Enf. Coordinator	Thomas E. Jecha	EC's Unit/Region	Enforcement Team D
Media Program(s)	Public Water Supply		
Admin. Penalty \$ Limit	Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (<i>Sum of violation base penalties</i>)		Subtotal 1	\$3,300
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	10% Enhancement	Subtotals 2, 3 & 7	\$330
Notes	The respondent has two NOV's dated August 22, 2000 and November 5, 2002 with the same or similar violations at this site.		+
Culpability	0% Enhancement	Subtotal 4	\$0
Notes	The respondent does not meet the culpability criteria.		+
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer	
Ordinary			
None of the above	X	<i>(mark with small x)</i>	+
Notes	The respondent is not yet in compliance.		
Economic Benefit	0% Enhancement*	Subtotal 6	\$0
	\$364 Total EB Amounts		=
	\$1,250 Approx. Cost of Compliance		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$3,630
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)</small>			
Notes			=
		Final Penalty Amount	\$3,630
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$3,630
DEFERRAL		Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)</small>			
Notes	Deferrals are not offered in conjunction with findings orders.		=
PAYABLE PENALTY			\$3,630



Screening Date 17-Mar-2003

Docket Number 2003-0116-MLM-E

PCW

Respondent City of Winfield

Policy Revision 2 (09/02)

Case ID No. Enf. ID No. 18953 Case No. 1

PCW Revision 11/15/02

Respondent/Site ID No. Public Water Supply Id.No. 2250003

Media [Statute] Public Water Supply

Enf. Coordinator Thomas E. Jecha

Site Address City Hall in downtown Winfield on Spur 185.

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)	2	10%
	Other written NOVs		0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)		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%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)		0%
	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%
Convictions	Any criminal convictions of this state or the federal government (number of counts)		0%
Emissions	Chronic excessive emissions events (number of events)		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 no violations were disclosed)		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%
<i>Please enter Yes or No</i>			
Other	Environmental management systems in place for one year or more		0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program		0%
	Participation in a voluntary pollution reduction program		0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements		0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

N/A < Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A < Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes

The respondent has two NOVs dated August 22, 2000 and November 5, 2002 with the same or similar violations at this site.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 10%

Screening Date 17-Mar-03 **Docket Number** 2003-0116-MLM-E **PCW**
Respondent City of Winfield **Policy Revision 2 (09/02)**
Case ID No. Enf. ID No. 18953 **Case No.** 1 **PCW Revision 11/15/02**
Respondent/Site ID No. Public Water Supply Id.No. 2250003
Media [Statute] Public Water Supply
Enf. Coordinator Thomas E. Jecha
Violation Number 1
Primary Rule Cite 30 Tex. Admin. Code § 290.46(m)(1)(A)
Secondary Cite(s)
Violation Description Failure to inspect the ground or elevated storage tanks at least annually to determine that the vents are in place and properly screened; the roof hatches are closed and locked; flap valves provide adequate protection against insects, rodents, and other vermin, as documented during investigations conducted on September 25 and December 19, 2002.

Base Penalty \$1,000

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

		Harm				
		Major	Moderate	Minor		
OR	Release				Percent	25%
	Actual					
	Potential	x				

» **Programmatic Matrix**

		Major	Moderate	Minor		
OR	Falsification				Percent	

Matrix Notes
 Failure to inspect the storage tanks at least annually could expose water being supplied for human consumption to significant amounts of pollution which exceed levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$250

Events Notes
 One annual penalty event is recommended for failure to conduct investigations at least annually as documented during inspections conducted on September 25 and December 19, 2002.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$41 **Violation Final Penalty total** \$275

This Violation Final Assessed Penalty (adjusted for limits) \$275

Economic Benefit Worksheet

Respondent City of Winfield
 ID Number(s) Enf. ID No. 18953 Case No. 1
 Media [Statute] Public Water Supply
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	25-Sep-2002	14-Feb-2003	0.4	\$2	\$39	\$41
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct an annual tank inspection from the investigation date until the date of compliance.

Approx Cost of Compliance \$100

TOTAL \$41

Screening Date 17-Mar-03 **Docket Number** 2003-0116-MLM-E **PCW**
Respondent City of Winfield **Policy Revision 2 (09/02)**
Case ID No. Enf. ID No. 18953 Case No. 1 **PCW Revision 11/15/02**
Respondent/Site ID No. Public Water Supply Id.No. 2250003
Media [Statute] Public Water Supply
Enf. Coordinator Thomas E. Jecha
Violation Number 2
Primary Rule Cite 30 Tex. Admin. Code §§ 290.42(k), 290.44(h)(4)(C), and 290.46(f), (f)(3)(E)(iv), (i), and (n)(2)
Secondary Cite(s)
Violation Description Failure to have: a plant operations manual; annual test results of backflow assemblies installed at a school and the waste water treatment plant; the public water system operating records; a record of a customer service inspection certification for a new convenience store under construction; records of service agreements; and a distribution system map with the locations of valves and mains as documented during investigations conducted on September 25 and December 19, 2002.

Base Penalty \$1,000

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

		Harm			
		Major	Moderate	Minor	
OR	Release				Percent
	Actual				
	Potential				

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification	x			Percent 10%

Matrix Notes The respondent failed to comply with 100% of the rule.

Adjustment -\$900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

Events Notes One penalty event is recommended for failure to maintain records as documented during inspections conducted on September 25 and December 19, 2002.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$165 **Violation Final Penalty total** \$110

This Violation Final Assessed Penalty (adjusted for limits) \$110

Economic Benefit Worksheet

Respondent City of Winfield
 ID Number(s) Enf. ID No. 18953 Case No. 1
 Media [Statute] Public Water Supply
 Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	25-Sep-2002	23-Jul-2003	0.8	\$4	n/a	\$4
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$450	25-Sep-2002	23-Jul-2003	0.8	\$19	n/a	\$19

Notes for DELAYED costs

Estimated delayed costs to develop a plant operations manual, a distribution system map, maintain public water system operating records, maintain the customer service inspection certificate, and maintain service records.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	25-Sep-2002	1-Feb-2004	1.4	\$7	\$135	\$142
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to annually test the backflow prevention devices at a school and the water treatment plant from the investigation date until the expected date of compliance.

Approx Cost of Compliance

TOTAL

Screening Date	17-Mar-03	Docket Number	2003-0116-MLM-E	PCW
Respondent	City of Winfield			Policy Revision 2 (09/02)
Case ID No.	Enf. ID No. 18953 Case No. 1			PCW Revision 11/15/02
Respondent/Site ID No.	Public Water Supply Id.No. 2250003			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Thomas E. Jecha			
Violation Number	<input type="text" value="3"/>			
Primary Rule Cite	<input type="text" value="30 Tex. Admin. Code § 290.110(c)(5)(A)"/>			
Secondary Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to perform chlorine residual tests at least once every seven days as documented during investigations conducted on September 25 and December 19, 2002."/>			

Base Penalty

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

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

» **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one; use small x

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

Violation Base Penalty

Events Notes

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 Winfield
ID Number(s) Enf. ID No. 18953 Case No. 1
Media [Statute] Public Water Supply
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$200	25-Sep-2002	1-Jun-2003	0.7	\$7	\$136	\$143
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to perform chlorine residual tests from the date of the investigation through the date of compliance.

Approx Cost of Compliance \$200

TOTAL \$143

Screening Date 17-Mar-03 **Docket Number** 2003-0116-MLM-E **PCW**
Respondent City of Winfield **Policy Revision 2 (09/02)**
Case ID No. Enf. ID No. 18953 Case No. 1 **PCW Revision 11/15/02**
Respondent/Site ID No. Public Water Supply Id.No. 2250003
Media [Statute] Public Water Supply
Enf. Coordinator Thomas E. Jecha
Violation Number 4
Primary Rule Cite 30 Tex. Admin. Code § 290.46(e)(3)(A)
Secondary Cite(s)
Violation Description Failure to have the public water system under the direct supervision of a certified operator holding a valid Grade D or higher Ground Water/Surface Water/Distribution operator's certificate as documented during investigations conducted on September 25 and December 19, 2002.

Base Penalty \$1,000

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

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential	x			Percent 25%

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification				Percent

Matrix Notes Failure to have the public water system under the direct supervision of a properly certified operator could allow water with significant amounts of pollution which exceed levels that are protective of human health to be distributed for human consumption.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 8

mark only one; use small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,000

Events Notes Eight monthly penalty events are recommended from the September 25, 2002 investigation until compliance was achieved on May 7, 2003.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$9 **Violation Final Penalty total** \$2,200

This Violation Final Assessed Penalty (adjusted for limits) \$2,200

Economic Benefit Worksheet

Respondent City of Winfield
 ID Number(s) Enf. ID No. 18953 Case No. 1
 Media [Statute] Public Water Supply
 Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)	\$200	25-Sep-2002	7-May-2003	0.6	\$0	\$8	\$9
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to obtain class D operator certification, calculated from the date of the initial inspection to the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

Screening Date 17-Mar-03 **Docket Number** 2003-0116-MLM-E **PCW**
Respondent City of Winfield **Policy Revision 2 (09/02)**
Case ID No. Enf. ID No. 18953 Case No. 1 **PCW Revision 11/15/02**
Respondent/Site ID No. Public Water Supply Id.No. 2250003
Media [Statute] Public Water Supply
Enf. Coordinator Thomas E. Jecha
Violation Number 5
Primary Rule Cite 30 Tex. Admin. Code § 290.109(c)(1)(B)
Secondary Cite(s)
Violation Description Failure to develop a public water system monitoring plan for the collection of bacteriological samples as documented during investigations conducted on September 25 and December 19, 2002.

Base Penalty \$1,000

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

Harm

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent

» **Programmatic Matrix**

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

The respondent failed to comply with 100% of the rule.

Adjustment -\$900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 2

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Events Notes

Two single events are recommended for violations documented during the September 25 and December 19, 2002 investigations.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$7

Violation Final Penalty total \$220

This Violation Final Assessed Penalty (adjusted for limits) \$220

Economic Benefit Worksheet

Respondent City of Winfield
ID Number(s) Enf. ID No. 18953 Case No. 1
Media [Statute] Public Water Supply
Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$100	25-Sep-2002	1-Feb-2004	1.4	\$7	n/a	\$7

Notes for DELAYED costs

Estimated delayed cost to develop a system monitoring plan from the investigation date until the expected date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

COMPLIANCE HISTORY

Customer/Respondent/Owner-Operator: The City of Winfield (for penalty calculation purposes only) Site Classification:
Regulated Entity/ID Nos.: Public Water Supply ID No. 2250003 Site Rating:
Location [physical address or description of location (street, highway, FM, etc.) including city or nearest city, and county]: City Hall in downtown Winfield on Spur 185 Repeat Violator: (y/n)
TCEQ Region No. Region 5
Date Compliance History Prepared: March 21, 2003

Agency Decision Requiring Compliance History (mark one):

- the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit
x enforcement
the use of announced investigations (Field Ops)
participation in innovative programs

Compliance Period: March 21, 1998 to March 21, 2003

TCEQ staff person to contact for additional information regarding this compliance history:

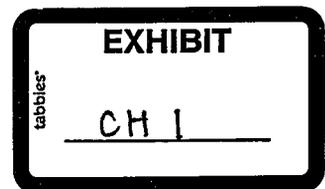
Name: Thomas Jecha Phone: 512-239-2576

Site Compliance History Components

- 1. Has the site been in existence and/or operation for the full five year compliance period? [x] Yes [] No [] Unk
2. Has there been a (known) change in ownership of the site during the compliance period? [] Yes [x] No [] Unk
3. If Yes, who is the current owner?
4. If Yes, who was/were the prior owner(s)?
5. When did the change(s) in ownership occur?

Components (multimedia) for the Site:

- A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government
1. Effective Date: NA Type of Action:
Violation Citation 1: Classification:
Violation Description:
B. Any criminal convictions of the state of Texas and the federal government.
Conviction Date: NA
Count 1:
Count 2:
C. Chronic excessive emissions events: None
D. The dates of investigations.



1. 7/20/00
2. 9/25/02
3. 12/19/02

E. Written notices of violation (NOV)

- | | | | | | |
|----|------------------------|---|-----------------|------------------------------|--|
| 1. | Date: | 8/22/00 | Self-reported? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| | Violation Citation 1: | 290.46(p)(1) | Classification: | | |
| | Violation Description: | Storage tank inspections. | | | |
| | Violation Citation 2: | 290.44(h)(1) | Classification: | | |
| | Violation Description: | Backflow prevention program. | | | |
| | Violation Citation 3: | 290.46(d) | Classification: | | |
| | Violation Description: | Monthly Water Works Operation Reports. | | | |
| | Violation Citation 4: | 290.46(f)(2) | Classification: | | |
| | Violation Description: | Chlorine residual tests. | | | |
| | Violation Citation 5: | 290.46(i) | Classification: | | |
| | Violation Description: | Adequate service agreement. | | | |
| | Violation Citation 6: | 290.45(f)(4) | Classification: | | |
| | Violation Description: | Minimum water system capacity requirements. | | | |
| 2. | Date: | 11/5/02 | Self-reported? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| | Violation Citation 1: | 290.46(m) | Classification: | | |
| | Violation Description: | Storage tank inspections. | | | |
| | Violation Citation 2: | 290.44(h)(4)(C) | Classification: | | |
| | Violation Description: | Cross Connection Control Program | | | |
| | Violation Citation 3: | 290.46(i) | Classification: | | |
| | Violation Description: | Adequate service agreement. | | | |
| | Violation Citation 4: | 290.110(c)(5)(A) | Classification: | | |
| | Violation Description: | Chlorine residual tests. | | | |
| | Violation Citation 5: | 290.46(f)(3)(E)(iv) | Classification: | | |
| | Violation Description: | Customer Service Inspection. | | | |
| | Violation Citation 6: | 290.46(e) | Classification: | | |
| | Violation Description: | Valid Grade D Operators Certificate. | | | |
| | Violation Citation 7: | 290.109(c)(1)(B) | Classification: | | |
| | Violation Description: | System Monitoring Plan | | | |
| | Violation Citation 8: | 290.46(f) | Classification: | | |
| | Violation Description: | Operating Records. | | | |
| | Violation Citation 9: | 290.46(n)(2) | Classification: | | |
| | Violation Description: | Distribution system map. | | | |
| | Violation Citation 10: | 290.42(k) | Classification: | | |
| | Violation Description: | Plant operations manual. | | | |

F. Environmental audits.

1. Notice of Intent Date: NA

Disclosure Date:

Violation Citation 1: Classification:

Violation Description:

- G. Type of environmental management systems (EMSS).
NA
- H. Voluntary on-site compliance assessment dates.
NA
- I. Participation in a voluntary pollution reduction program.
NA
- J. Early compliance.
NA

Sites Outside of Texas

State:

Site Name:

Location:

Type of Action:

Effective Date:

Penalty Calculation Worksheet (PCW)



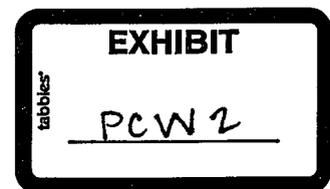
Policy Revision 2 (09/02)

PCW Revision 11/15/02

DATES			
PCW	23-Apr-2003	Screening	27-Jan-2003
		Priority Due	27-May-2003
		EPA Due	
RESPONDENT INFORMATION			
Respondent	City of Winfield		
Respondent/Site ID No(s)	TPDES Permit No. 12146-001		
Facility/Site Region	5 - Tyler	Major/Minor Source	Minor
CASE INFORMATION			
Enf./Case ID No(s)	7116		
Docket No.	2003-0116-MLM-E	No. Violations	3
Case Priority	3	Order Type	Findings
Enf. Coordinator	Thomas E Jecha	EC's Unit/Region	Enforcement Team D
Media Program(s)	Water Quality		
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (<i>Sum of violation base penalties</i>)		Subtotal 1	\$18,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	94% Enhancement	Subtotals 2, 3 & 7	\$16,920
Notes	Eighteen months of self reported effluent violations were documented and the respondent received 2 prior NOV's dated September 3, 1999 and January 16, 2002 for other violations.		+
Culpability	0% Enhancement	Subtotal 4	\$0
Notes	No <input type="checkbox"/> Select Yes/No The respondent does not meet the culpability criteria.		+
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer	
Ordinary			
None of the above	X	(mark with small x)	+
Notes	The respondent is not yet in compliance.		
Economic Benefit	0% Enhancement*	Subtotal 6	\$0
	\$1,335 Total EB Amounts	*Capped at the Total EB \$ Amount	
	\$1,420 Approx. Cost of Compliance	=	
SUM OF SUBTOTALS 1-7		Final Subtotal	\$34,920
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	-\$22,390
Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)			
Notes	Recommended reduction to make the penalty for the reporting violations proportional to that of the effluent violations.		=
		Final Penalty Amount	\$12,530
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$12,530
DEFERRAL		Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)			
Notes	Deferrals are not offered in conjunction with findings orders.		=
PAYABLE PENALTY		\$12,530	



Screening Date 27-Jan-2003 **Docket Number** 2003-0116-MLM-E **PCW**
Respondent City of Winfield **Policy Revision 2 (09/02)**
Case ID No. 7116 **PCW Revision 11/15/02**
Respondent/Site ID No. TPDES Permit No. 12146-001
Media [Statute] Water Quality
Enf. Coordinator Thomas E Jecha
Site Address Approximately 400 feet north of Interstate Highway 30 access road and 1500 feet west of Farm-to-Market Road 1734, Winfield, Titus County

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)	18	90%
	Other written NOVs	2	4%
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 no violations were disclosed)	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) 94%

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

No Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes Eighteen months of self reported effluent violations were documented and the respondent received 2 prior NOVs dated September 3, 1999 and January 16, 2002 for other violations.

Total Adjustment Percentage (Subtotals 2, 3 & 7) 94%

Screening Date	27-Jan-03	Docket Number	2003-0116-MLM-E	PCW
Respondent	City of Winfield	Policy Revision 2	(09/02)	
Case ID No.	7116	PCW Revision	11/15/02	
Respondent/Site ID No.	TPDES Permit No. 12146-001			
Media [Statute]	Water Quality			
Enf. Coordinator	Thomas E Jecha			
Violation Number	1			
Primary Rule Cite	TPDES Permit No. 12146-001, Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin Code § 319.7(d)			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)			
Violation Description	The respondent failed to submit the discharge monitoring reports ("DMRs") for the months of September 2001 until November 2002, as documented during the September 27, 2002, January 14, 2003, and April 1, 2003 record reviews.			

Base Penalty \$10,000

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

		Harm			
		Major	Moderate	Minor	
OR	Release				Percent
	Actual				
	Potential				

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification	x			Percent 10%

Matrix Notes The respondent failed to comply with 100% of the rule.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 14

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$14,000

Events Notes Fourteen single events are recommended for the 14 DMRs not submitted during the period from September 2001 until November 2002.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$147 **Violation Final Penalty total** \$9,746

This Violation Final Assessed Penalty (adjusted for limits) \$9,746

Economic Benefit Worksheet

Respondent: City of Winfield
 ID Number(s) 7116
 Media [Statute] Water Quality
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$120	1-Sep-2001	31-Oct-2002	1.2	\$7	\$140	\$147
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs	Estimated cost to complete and submit the 14 overdue DMR reports.						

Approx Cost of Compliance

TOTAL

Screening Date	27-Jan-03	Docket Number	2003-0116-MLM-E	PCW
Respondent	City of Winfield	Policy Revision 2	(09/02)	
Case ID No.	7116	PCW Revision	11/15/02	
Respondent/Site ID No.	TPDES Permit No. 12146-001			
Media [Statute]	Water Quality			
Enf. Coordinator	Thomas E Jecha			
Violation Number	2			
Primary Rule Cite	TPDES Permit No. 12146-001, Section III, Reporting Requirements			
Secondary Cite(s)	30 Tex. Admin. Code § 305.125(1)			
Violation Description	As documented during the January 27, 2003 record review, the respondent failed to submit the 2002 annual sludge report to the TCEQ Tyler Office and the Database and Administration Team of the Enforcement Division by September 1, 2002.			
		Base Penalty		\$10,000

» Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual			
	Potential			
				Percent
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
OR		x		
				Percent
				10%
Matrix Notes	The respondent failed to meet 100% of the rule.			
		Adjustment		-\$9,000
		Base Penalty Subtotal		\$1,000

Violation Events				
	Number of Violation Events	1		
mark only one; use small x	daily			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
				Violation Base Penalty
				\$1,000
Events Notes	One single event is recommended for the violation documented during the January 27, 2003 record review.			

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$)	\$314
Violation Final Penalty total	\$696
This Violation Final Assessed Penalty (adjusted for limits)	\$696

Economic Benefit Worksheet

Respondent City of Winfield
 ID Number(s) 7116
 Media [Statute] Water Quality
 Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

--

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$300	1-Jan-2002	31-Dec-2002	1.0	\$15	\$299	\$314
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Cost of maintaining and submitting sludge records.
--

Approx Cost of Compliance

TOTAL

Screening Date 27-Jan-03

Docket Number 2003-0116-MLM-E

PCW

Respondent City of Winfield

Policy Revision 2 (09/02)

Case ID No. 7116

PCW Revision 11/15/02

Respondent/Site ID No. TPDES Permit No. 12146-001

Media [Statute] Water Quality

Enf. Coordinator Thomas E Jecha

Violation Number 3

Primary Rule Cite

Texas Water Code § 26.121(a) and TPDES Permit No. 12146-001, Final Effluent Limitations and Monitoring Requirements

Secondary Cite(s)

30 Tex. Admin. Code § 305.125(1)

Violation Description

The respondent failed to comply with the permitted discharge limitations for the months of 12/02, 1/03, 2/03, 3/03, 5/03, 7/03, 8/03, and 9/03, as documented during records reviews conducted on February 12 and November 5, 2003. See attached table.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Using the simplified model, it was determined that as a result of these discharges, the environment was exposed to insignificant amounts of pollutants that did not exceed levels protective of human health and environmental receptors.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 3

mark only one; use small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Events Notes

Three quarterly events are recommended for the months of 12/02, 1/03, 2/03, 3/03, 5/03, 7/03, 8/03, and 9/03.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$875

Violation Final Penalty total \$2,088

This Violation Final Assessed Penalty (adjusted for limits) \$2,088

Economic Benefit Worksheet

Respondent City of Winfield
 ID Number(s) 7116
 Media [Statute] Water Quality
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$1,000	1-Dec-2002	1-Oct-2003	0.8	\$42	\$833	\$875
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for additional oversight and sampling which might have reduced or alleviated the exceedances.

Approx Cost of Compliance \$1,000

TOTAL \$875

Respondent	City of Winfield
ID Number(s)	TPDES Permit No. 12146-001; Enf. ID No. 14045 Case No. 2
Docket Number	2003-0116-MLM-E
Enf. Coordinator	Thomas Jecha

Corresponds to Violation Number: 3

EFFLUENT PARAMETER
Permit Limit and Self-Reported Values

Month/Year	TSS daily avg. conc. 20 mg/L	TSS Single Grab 65 mg/L	TSS daily avg. conc. 15 lbs/day	BOD daily avg. conc. 20 mg/L	BOD daily avg. load 15 lbs/day	BOD single grab 65 mg/L	Dissolved Oxygen min. min. conc. 3.0 mg/L								
Dec-02	60.1	96.7	20.1	105.8	35.1	133.0	2.2								
Jan-03	50.6	88.0	c	74.5	20.0	130.0	1.3								
Feb-03	c	c	39.3	c	23.0	c	c								
Mar-03	21.9	c	c	c	c	c	1.7								
Apr-03	c	c	c	c	c	c	c								
May-03	25.0	c	c	32.2	c	76.6	1.3								
Jun-03	c	c	c	c	c	c	c								
Jul-03	c	c	c	c	c	c	1.6								
Aug-03	27.5	c	c	c	c	c	0.9								
Sep-03	21.7	c	c	c	c	c	c								

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator:	CN600657308 CITY OF WINFIELD	Classification: AVERAGE	Rating: 2.79
Regulated Entity:	RN102075397 CITY OF WINFIELD	Classification: AVERAGE	Site Rating: 2.79
ID Number(s):	WASTEWATER LICENSING	LICENSE	WQ0012146001
	WASTEWATER	PERMIT	TPDES0079782
	WASTEWATER	PERMIT	WQ0012146001
Location:	Rating Date: 9/1/03 Repeat Violator: NO		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	November 07, 2003		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 07, 1998 to November 07, 2003		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: T. Jecha Phone: _____

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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.

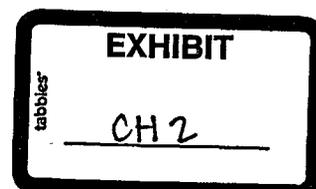
N/A

C. Chronic excessive emissions events.

N/A

D. The dates of investigations.

- 1 05/16/2003
- 2 06/13/2003
- 3 07/17/2000
- 4 07/14/2003
- 5 07/17/2000
- 6 08/13/2001
- 7 09/18/2000
- 8 10/09/2001
- 9 10/23/2000
- 10 10/18/1999
- 11 11/08/2000
- 12 11/09/1999
- 13 12/22/2000
- 14 12/13/1999
- 15 01/16/2001
- 16 01/13/2003
- 17 01/18/2000
- 18 09/03/1999
- 19 07/27/1999



20 11/16/2000
21 02/28/2000
22 02/13/2003
23 03/18/2003
24 01/16/2002
25 03/15/2000
26 04/14/2000
27 04/16/2003
28 05/19/2000

E. Written notices of violations (NOV).

Date: 04/30/2000

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2000

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2001

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2000

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/1999

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/03/1999

Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121
Rqmt Prov: PERMIT IA
Description: Failure to report data for Outfall 001A.

Date: 11/30/1999

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2002

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/1999

Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

2
Date: 01/16/2002

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

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

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 01/31/2000

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2000

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003

Self Report? YES

Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

14 + May, July, August,
Sept = 18 same as
similar

- 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
THE CITY OF WINFIELD,
RN102075397

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2003-0116-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding The City of Winfield ("Winfield") under the authority of TEX. WATER CODE ch. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Winfield, presented this agreement to the Commission.

Winfield 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, Winfield agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Winfield.

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

FINDINGS OF FACT

1. Winfield owns and operates a 0.084 million gallon per day wastewater treatment plant located approximately 400 feet north of the Interstate 30 access road and 1500 feet west of Farm-to-Market Road 1734, in Winfield, Titus County, Texas (the "WWTP").
2. The WWTP has discharged waste into or adjacent to water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.

8. During investigations of the Winfield PWS conducted on September 25, 2002 and December 19, 2002, a TCEQ Tyler Regional Office investigator documented that Winfield:
 - a. Failed to comply with water storage tank annual inspection requirements. Specifically, the ground and elevated storage tanks had not been inspected at least annually to determine that: the vents are in place and properly screened; the roof hatches are closed and locked; flap valves provide adequate protection against insects, rodents, and other vermin; the interior and exterior coating systems continue to provide adequate protection to all metal surfaces; and the tanks remain in a watertight condition;
 - b. Failed to have backflow prevention test results for a school and the WWTP available for review;
 - c. Failed to have service agreement records available for review;
 - d. Failed to have chlorine residual test records available for review;
 - e. Failed to have customer service inspection records for a convenience store under construction available for review;
 - f. Failed to have a certified operator holding a Grade D or higher Ground Water/Surface Water/Distribution Operator's Certificate;
 - g. Failed to develop a site sampling plan for the collection of bacteriological samples;
 - h. Failed to have any records of monthly operations available for review;
 - i. Failed to have a distribution system map available for review; and
 - j. Failed to have a plant operations manual.
9. Winfield received notices of the violations on or about November 10, 2002, January 23, 2003 and June 15, 2003.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1, 2, 3, and 4 Winfield is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 26; TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 5, Winfield failed to submit the discharge monitoring reports (“DMRs”) for the months of September 2001 until November 2002, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(d); TCEQ Pollution Discharge Elimination System (“TPDES”) Permit No. 12146-001 Monitoring and Reporting Requirement No. 1
3. As evidenced by Finding of Fact No. 6, Winfield failed to submit an annual sludge report, in violation of 30 TEX. ADMIN. CODE § 305.125(1); and TPDES Permit 12146-001 Section III Reporting Requirements.
4. As evidenced by Finding of Fact No. 7, Winfield failed to comply with permitted discharge limitations for the months of December 2002, January 2003, February 2003, March 2003, May 2003, July 2003, August 2003, and September 2003, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit 12146-001, Final Effluent Limitations and Monitoring Requirements.
5. As evidenced by Finding of Fact No. 8(a), Winfield failed to comply with water storage tank annual inspection requirements, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
6. As evidenced by Finding of Fact No. 8(b), Winfield failed to comply with the requirement to have back flow prevention test results for a school and water treatment plant available for review, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4)(C).
7. As evidenced by Finding of Fact No. 8(c), Winfield failed to comply with the requirement to have service agreement records available for review in violation of 30 TEX. ADMIN. CODE § 290.46(i).
8. As evidenced by Finding of Fact No. 8(d), Winfield failed to have chlorine residual test records available for review in violation of 30 TEX. ADMIN. CODE § 290.110(c)(5)(A).
9. As evidenced by Finding of Fact No. 8(e), Winfield failed to have customer service inspection records for a convenience store under construction available for review in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(E)(iv).
10. As evidenced by Finding of Fact No. 8(f), Winfield failed to have a certified operator holding a valid Grade D or higher Ground Water/Surface Water/Distribution operator’s certificate in violation of 30 TEX. ADMIN. CODE § 290.46(e)(3)(A).
11. As evidenced by Finding of Fact No. 8(g), Winfield failed to develop a site sampling plan for the collection of bacteriological samples, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(1)(B).

12. As evidenced by Finding of Fact No. 8(h), Winfield failed to have records of monthly operations available for review, in violation of 30 TEX. ADMIN. CODE § 290.46(f).
13. As evidenced by Finding of Fact No. 8(i), Winfield failed to have a distribution map available for review, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2).
14. As evidenced by Finding of Fact No 8(j), Winfield failed to have a plant operations manual, in violation of 30 TEX. ADMIN. CODE § 290.42(k).
15. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Winfield 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; and for violations of permits issued under such statutes.
16. An administrative penalty in the amount of sixteen thousand one hundred sixty dollars (\$16,160.00) 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 and TEX. HEALTH & SAFETY § 341.049. Winfield has paid four hundred forty-nine dollars and twenty cents (\$449.20) of the administrative penalty. The remaining fifteen thousand seven hundred ten dollars and eighty cents (\$15,710.80) of the administrative penalty shall be payable in thirty-five (35) payments of four hundred forty-eight dollars and eighty-eight cents (\$448.88) each.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Winfield is assessed an administrative penalty in the amount of sixteen thousand one hundred sixty dollars (\$16,160.00) as set forth in Conclusion of Law 16 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Winfield'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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: The City of Winfield; Docket No. 2003-0116-MLM-E; Enforcement ID No. 7116" 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. Winfield shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Winfield shall:
 - i. Submit all delinquent DMRs, in accordance with TPDES Permit No. 12146-001, Monitoring and Reporting Requirements No. 1; and
 - ii. Submit the annual sludge report for fiscal year 2002, in accordance with TPDES Permit No. 12146-001 Section III Reporting Requirements.
 - b. Within 45 days after the effective date of this Agreed Order, Winfield shall submit written certification of compliance with Ordering Provision No. 2.a;
 - c. Within 60 days after the effective date of this Agreed Order
 - i. Conduct an annual inspection of the water storage tanks, as required by 30 TEX. ADMIN. CODE § 290.46(m)(1)(A);
 - ii. Have all backflow prevention test results, including the school and the WWTP available for review, as required by 30 TEX. ADMIN. CODE § 290.44(h)(4)(C);
 - iii. Have service agreement records available for review, as required by 30 TEX. ADMIN. CODE § 290.46(I);
 - iv. Have chlorine residual test records available for review, as required by 30 TEX. ADMIN. CODE § 290.110(c)(5)(A);
 - v. Have customer service inspection records for the new convenience store that was under construction available for review, as required by 30 TEX. ADMIN. CODE § 290.46(f)(3)(E)(iv);
 - vi. Have a certified operator holding a valid Grade D or higher Ground Water/Surface Water/Distribution Operator's Certificate, as required by 30 TEX. ADMIN. CODE § 290.46(e)(3)(A);

- vii. Develop a site sampling plan for the collection of bacteriological samples, as required by 30 TEX. ADMIN. CODE § 290.109(c)(1)(B);
 - viii. Have all monthly operations records available for review, as required by 30 TEX. ADMIN. CODE § 290.46(f);
 - ix. Have a distribution system map available for review, as required by 30 TEX. ADMIN. CODE § 290.46(n)(2); and
 - x. Develop a plant operations manual, as required by 30 TEX. ADMIN. CODE § 290.42(k) (now 30 TEX. ADMIN. CODE § 290.42(g)(1)).
- d. Within 90 days after the effective date of the Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 12146-001;
 - e. Within 90 days after the effective date of the Agreed Order, submit written certification of compliance with Ordering Provision No. 2(c); and
 - f. Submit, in duplicate, all correspondence, reports, and documentation required by these Ordering Provisions to:

Work Leader, Team 5, Section III
Enforcement Division, MC 169
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

With a copy to:

Mr. Noel Luper, Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

- 3. The provisions of this Agreed Order shall apply to and be binding upon Winfield. Winfield is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If Winfield 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, Winfield's failure to comply is not a violation of this Agreed Order. Winfield has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Winfield shall notify the Executive Director within seven days after Winfield becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Winfield shall be made in writing to the Executive Director. Extensions are not effective until Winfield receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Winfield if the Executive Director determines that Winfield has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against Winfield in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Winfield, or three days after the date on which the Commission mails notice of the Order to Winfield, whichever is earlier.

The City of Winfield
DOCKET NO. 2003-0116-MLM-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

J. Bergeron Penhune

For the Executive Director

Date

10/2/07

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of The City of Winfield. I represent that I am authorized to agree to the attached Agreed Order on behalf of The City of Winfield, 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 Winfield 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, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

John Waldon
Signature

8-31-07
Date

JOHN WALDON
Name (printed or typed)
Authorized Representative
The City of Winfield

Manager
Title