

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-1278-MWD-E **TCEQ ID:** RN102916046 **CASE NO.:** 34416  
**RESPONDENT NAME:** City of Waelder

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input 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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Waelder WWTP, on the north bank of Baldrige Creek in the southeast portion of the City of Waelder, approximately 0.71 mile southeast of the intersection of U. S. Highway 90 and State Highway 97, Waelder, Gonzales County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 25, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> The Honorable Roy Tovar, Mayor, City of Waelder, P.O. Box 427, Waelder, Texas 78959  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 13, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 30, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failed to comply with permit effluent limits for biochemical oxygen demand and pH [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014252001 Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failed to submit monitoring results at the intervals specified. Specifically, the Respondent did not submit the sludge report for the monitoring period ending July 31, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014252001 Sludge Provisions].</p>	<p><b>Total Assessed:</b> \$3,200</p> <p><b>Total Deferred:</b> \$640  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,560</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the Sludge Report for the monitoring period ending July 31, 2006; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014252001 and with Ordering Provision a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0014252001



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

<b>DATES</b>	Assigned	6-Aug-2007	Screening	9-Aug-2007	EPA Due	
	PCW	15-Aug-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Waelder		
Reg. Ent. Ref. No.	RN102916046		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	34416	No. of Violations	2
Docket No.	2007-1278-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum \$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> <input type="text" value="\$2,000"/>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
<b>Compliance History</b>	<b>Subtotals 2, 3, &amp; 7</b> <input type="text" value="\$1,200"/>
Notes	A 60% enhancement is recommended because of twelve prior NOV's for the same or similar violations of which ten are self reported effluent limit violations.
<b>Culpability</b>	<b>Subtotal 4</b> <input type="text" value="\$0"/>
Notes	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply</b>	<b>Subtotal 5</b> <input type="text" value="\$0"/>
Notes	The Respondent does not meet the good faith criteria.
<b>Other Adjustments</b>	<b>Subtotal 6</b> <input type="text" value="\$0"/>
Notes	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> <input type="text" value="\$3,200"/>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b> <input type="text" value="\$0"/>
Notes	
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> <input type="text" value="\$3,200"/>
<b>DEFERRAL</b>	<b>Adjustment</b> <input type="text" value="-\$640"/>
Notes	Deferral offered for expedited settlement.
<b>PAYABLE PENALTY</b>	<b>\$2,560</b>

Screening Date 9-Aug-2007

Docket No. 2007-1278-MWD-E

PCW

Respondent City of Waelder

Policy Revision 2 (September 2002)

Case ID No. 34416

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102916046

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	12	60%
	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 judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 60%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

A 60% enhancement is recommended because of twelve prior NOVs for the same or similar violations of which ten are self reported effluent limit violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 60%

<b>Screening Date</b> 9-Aug-2007	<b>Docket No.</b> 2007-1278-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Waelde	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 34416	<i>PCW Revision June 26, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN102916046		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Harvey Wilson		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0014252001 Effluent Limitations and Monitoring Requirements No. 1	
<b>Violation Description</b>	Failed to comply with permit effluent limits (see attached table).	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

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

<b>OR</b>	<b>Harm</b>					
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>		<b>Percent</b> <input type="text" value="10%"/>
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	x		
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>			

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	<b>Percent</b> <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**  
 A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow and ammonia nitrogen ("NH3-H") values were 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**

**Violation Events**

Number of Violation Events        Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$116"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,600"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,600"/>	

## Economic Benefit Worksheet

**Respondent** City of Waelder  
**Case ID No.** 34416  
**Reg. Ent. Reference No.** RN102916046  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.0	\$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)	\$2,000	1-Feb-2007	1-Apr-2008	1.2	\$116	n/a	\$116

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required is the day the noncompliance began. The Final Date is the expected compliance date.

**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/equipment				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

\$2,000

**TOTAL**

\$116

**Screening Date** 9-Aug-2007

**Docket No.** 2007-1278-MWD-E

**PCW**

**Respondent** City of Waelder

*Policy Revision 2 (September 2002)*

**Case ID No.** 34416

*PCW Revision June 26, 2007*

**Reg. Ent. Reference No.** RN102916046

**Media [Statute]** Water Quality

**Enf. Coordinator** Harvey Wilson

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0014252001 Sludge Provisions

**Violation Description**

Failed to submit monitoring results at the intervals specified. Specifically, the Respondent did not submit the sludge report for the monitoring period ending July 31, 2006.

**Base Penalty**

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

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes

100% of the requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

One single event is recommended.

**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 Waelder  
**Case ID No.** 34416  
**Reg. Ent. Reference No.** RN102916046  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$100	1-Sep-2006	30-Apr-2008	1.7	\$8	n/a	\$8

Notes for DELAYED costs

The estimated cost of submitting the required report. The Date Required is the date the report was due. The Final Date is the expected compliance date.

**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/equipment				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

\$100

TOTAL

\$8

City of Waelder  
Docket No. 2007-1278-MWD-E  
RN102916046  
TPDES Permit No. WQ0014252001  
Effluent Violations Table

Month/Year	Biochemical Oxygen Demand (5 day) Daily Average 30 lbs/day	Biochemical Oxygen Demand Daily Average 30 mg/L	pH 9.0 SU maximum
February, 2007	57.76	80.33	C
March, 2007	31.47	46.46	9.07
April, 2007	C	C	9.05
C = compliant    lbs/day = pounds per day    mg/L = milligrams per Liter    SU = standard unit			



# Compliance History

Customer/Respondent/Owner-Operator:	CN600624647	City of Waelder	Classification: AVERAGE	Rating: 1.55
Regulated Entity:	RN102916046	CITY OF WAELDER WWTP	Classification: AVERAGE	Site Rating: 1.55
ID Number(s):	WASTEWATER	PERMIT	WQ001452001	
	WASTEWATER	PERMIT	TX0034452	
	WASTEWATER	EPA ID	TX0034452	
Location:	LOCATED ON THE NORTH BACK OF BALDRIDGE CREEK IN THE SOUTHEAST PORTION OF THE CITY OF WAELDER APPROX 0.71 MILES SOUTHEAST OF THE INTERSECTION OF US HWY 90 AND STATE HWY 97 IN GONZALES COUNTY			Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	August 09, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 09, 2002 to August 09, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Harvey Wilson		Phone:	239-0321

## 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 approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	05/27/2004	(355817)
2	06/24/2004	(355818)
3	06/28/2004	(277247)
4	07/15/2004	(355819)
5	08/23/2004	(355820)
6	10/11/2004	(355821)
7	11/01/2004	(383931)
8	11/22/2004	(383932)
9	02/03/2005	(383933)
10	02/10/2005	(383929)
11	03/31/2005	(421861)
12	04/04/2005	(383930)
13	05/27/2005	(421862)
14	06/22/2005	(421863)
15	08/25/2005	(442754)
16	08/25/2005	(442755)
17	09/23/2005	(442756)
18	10/18/2005	(431830)
19	10/28/2005	(433267)
20	11/18/2005	(472110)
21	12/06/2005	(472111)

22 12/19/2005 (472112)  
 23 01/26/2006 (452951)  
 24 02/01/2006 (472113)  
 25 02/23/2006 (472108)  
 26 03/23/2006 (472109)  
 27 06/01/2006 (500512)  
 28 06/01/2006 (500513)  
 29 07/11/2006 (522629)  
 30 08/08/2006 (522630)  
 31 09/18/2006 (522631)  
 32 07/31/2007 (567686)

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

Date: 06/28/2004 (277247)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT TPDES PERMIT NO. 14252-001  
 Description: Failure to operate the facility to maintain compliance with the permit effluent limitations.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]  
 Rqmt Prov: PERMIT TPDES PERMIT NO. 14252-001  
 Description: Failure to include the time of sample analysis in records of monitoring activities.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT TPDES PERMIT NO. 14252-001  
 Description: Failure to submit or maintain documentation indicating the inlets between the ponds were cleaned to remove any sludge buildup and debris.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.6  
 30 TAC Chapter 319, SubChapter A 319.9(c)  
 Rqmt Prov: PERMIT TPDES PERMIT NO. 14252-001  
 Description: Failure to assure the quality of dissolved oxygen measurements through the use of standards or duplicate analyses.  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)  
 Rqmt Prov: PERMIT TPDES PERMIT NO. 14252-001  
 Description: Failure to demonstrate effluent samples are analyzed according to test methods specified in 40 CFR Part 136 or more recent editions of Standard Methods for the Examination of Water and Wastewater than those cited in Part 136.  
 Date: 10/31/2004 (383932)  
 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: 12/31/2004 (383933)  
 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: 03/31/2005 (421861)  
 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: 04/30/2005 (421862)  
 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: 10/18/2005 (431830)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.6  
 30 TAC Chapter 319, SubChapter A 319.9(c)  
 Rqmt Prov: PERMIT TPDES PERMIT NO. 14252-001  
 Description: Failure to assure the quality of dissolved oxygen measurements through the use of standards or duplicate analyses.

Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 317 317.3[G]		
Description:	Failure to ensure that the firm pumping capacity of all lift stations is such that the expected peak flow can be pumped to its desired location.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to maintain a minimum dissolved oxygen of 4.0 mg/l in the effluent.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d)		
Description:	Failure to ensure flow measurements, equipment, installation, and procedures shall conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d)		
Description:	Failure to ensure flow measurements, equipment, installation, and procedures shall conform to those prescribed in the Water Measurement Manual, United States Department of the Interior Bureau of Reclamation, Washington, D.C., or methods that are equivalent as approved by the executive director.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Effluent Limitations and Monitoring		
Description:	Failure to ensure that the interim daily average Biochemical Oxygen Demand (5-day) discharge limitation of 30 mg/l is not exceeded.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Other Requirements. 6. (page 23)		
Description:	Failure to maintain records of the yearly sludge accumulation checks in the facultative lagoon and stabilization pond no. 1 at the plant site for review and inspection by authorized representative of the Commission for a period of three years.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Monitoring and Reporting 2. (page 4)		
Description:	Failure to ensure measurements, tests and calculations are accurately accomplished in a representative manner.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c)		
Description:	Failure to assure the quality of all measurements through the use of blanks, standards, duplicate analyses, and spikes, utilizing at a minimum, the quality assurance requirements specified in Table 3 in §319.9 of this title (relating to Self-Monitoring and Quality Assurance Schedules).		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Other Requirements 8. (page 24)		
Description:	Failure to furnish certification by a licensed Texas Professional Engineer that the completed pond linings meets the appropriate criteria prior 60 days permit issuance to the TCEQ Regional Office (MC Region 14) and the Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Other Requirements 10. (page 24)		
Description:	Failure to submit documentation of periodic pond inlet cleaning to the TCEQ Region 14 office within 14 days of completion of the activity.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Monitoring and Reporting 3.b. (page 5)		
Description:	Failure to retain monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR 264.73(b)(9), at the facility site.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.11(c)		
Description:	Failure to ensure effluents are analyzed according to test methods specified in 40 CFR Part 136 or more recent editions of Standard Methods for the Examination of Water and Wastewater than those cited in Part 136.		
Date:	01/31/2006 (472108)		
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:	02/28/2006 (472109)		
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:	03/31/2006 (500512)		
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:	02/28/2007		
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:	03/31/2007		
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:	04/30/2007		
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		

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 WAELDER  
RN102916046**

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

## **AGREED ORDER DOCKET NO. 2007-1278-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Waelder ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility on the north bank of Baldrige Creek in the Southeast portion of the City of Waelder, approximately 0.71 mile southeast of the intersection of U. S. Highway 90 and State Highway 97 in Waelder, Gonzales County, Texas (the "Facility").
2. The City has discharged sewage, into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about August 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Two Hundred Dollars (\$3,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").



The City has paid Two Thousand Five Hundred Sixty Dollars (\$2,560) of the administrative penalty and Six Hundred Forty Dollars (\$640) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014252001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 13, 2007, and as indicated in the table below.

Effluent Violations Table

Month/Year	Biochemical Oxygen Demand (5 day) Daily Average 30 lbs/day	Biochemical Oxygen Demand Daily Average 30 mg/L	pH 9.0 SU maximum
February, 2007	57.76	80.33	C
March, 2007	31.47	46.46	9.07
April, 2007	C	C	9.05
C = compliant    lbs/day = pounds per day    mg/L = milligrams per Liter    SU = standard unit			

2. Failed to submit monitoring results at the intervals specified, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014252001 Sludge Provisions, as documented during a record review conducted on July 13, 2007. Specifically, the City did not submit the sludge report for the monitoring period ending July 31, 2006.



### III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Waelder, Docket No. 2007-1278-MWD-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit the Sludge Report for the monitoring period ending July 31, 2006, in accordance with the requirements of TPDES Permit No. WQ0014252001. The report shall be submitted to:

Compliance Monitoring Team (MC 224)  
Enforcement Division  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3097

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014252001 and with Ordering Provision 2.a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:



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

with a copy to:

Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



City of Waelder  
DOCKET NO. 2007-1278-MWD-E  
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### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

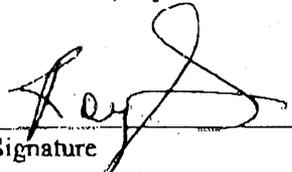
2/20/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
\_\_\_\_\_  
Signature

November 26, 2007  
Date

Roy Tovar  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Waelder

Mayor/City of Waelder  
Title

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

