

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0782-PWS-E TCEQ ID NO.: RN101190056 CASE NO.: 33510

RESPONDENT NAME: WALNUT CREEK SPECIAL UTILITY DISTRICT

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 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 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: 1150 Highway 199, Springtown, Parker County

TYPE OF OPERATION: Public water system

SMALL BUSINESS: N/A

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

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 March 10, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Water Enforcement Section, MC R-13, (210) 403-4012

TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901

Respondent: Mr. Jerry Holsomback, General Manager, P.O. Box 657, Springtown, Texas 76082

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Investigation Relating to this Case: March 19, 2007</p> <p>Date of NOE Relating to this Case: April 23, 2007</p> <p>Background Facts:</p> <p>The Respondent signed an Agreed Order on December 19, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PWS</p> <p>Failed to provide adequate production capacity and treatment plant capacity for the retail and wholesale connections under normal rated design flow [TEX. HEALTH & SAFETY CODE § 341.0315(c), 30 TEX. ADMIN. CODE §§ 290.45(e)(1) and (2) and 290.45(b)(2)(B); and Agreed Order Docket No. 2004-0494-PWS-E, Ordering Provision 2.a.i.].</p>	<p>Total Assessed: \$2,000</p> <p>Total Paid to General Revenue: \$2,000</p> <p>The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification:</p> <p>The Respondent has over three repeated enforcement actions (4 NOVs) over the prior five year period for the same violation.</p>	<p>Technical Requirements</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 365 days, provide a minimum production and treatment plant capacity of 0.48 gpm per retail connection while still providing proper capacity for all contractual obligations. 2. Within 380 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision above.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES	Assigned	23-Apr-2007	Screening	3-May-2007	EPA Due	
	PCW	28-Nov-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Walnut Creek Special Utility District		
Reg. Ent. Ref. No.	RN101190056		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	33510	No. of Violations	1
Docket No.	2007-0782-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 60% Enhancement Subtotals 2, 3, & 7 \$750

Notes: The compliance history enhancement is due to four prior Notices of Violation (NOVs) containing violations that are the same as or similar to the violations in the current enforcement action, and two prior Agreed Orders containing a denial of liability.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

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

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,185 0% Enhancement* Subtotal 6 \$0
 Approx. Cost of Compliance \$5,000 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$2,000

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount \$2,000

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$2,000

DEFERRAL 0% Reduction Adjustment \$0

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$2,000

Screening Date 3-May-2007

Docket No. 2007-0782-PWS-E

PCW

Respondent Walnut Creek Special Utility District

Policy Revision 2 (September 2002)

Case ID No. 33510

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101190056

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

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)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 60%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The compliance history enhancement is due to four prior Notices of Violation (NOVs) containing violations that are the same as or similar to the violations in the current enforcement action, and two prior Agreed Orders containing a denial of liability.

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

Screening Date 3-May-2007

Docket No. 2007-0782-PWS-E

PCW

Respondent Walnut Creek Special Utility District

Policy Revision 2 (September 2002)

Case ID No. 33510

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101190056

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.45(e)(1) and (2), 290.45(b)(2)(B), Tex. Health & Safety Code §341.0315(c), and Agreed Order Docket No. 2004-0494-PWS-E, Ordering Provision 2.a.i.

Violation Description Failed to provide adequate production capacity and treatment plant capacity for the retail and wholesale connections under normal rated design flow. Specifically, with an alternative production and treatment plant capacity requirement of 0.48 gpm per connection, Walnut Creek SUD should be producing a minimum of 4,275 gallons of treated water per minute; 2,575 gpm for the 5,364 retail connections and 1,700 gpm for its contractual obligation to the wholesale connections. Walnut Creek SUD currently provides only 3,472 gpm of treated water, which is a 19% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without adequate production and treatment capacity, customers of the water supply could experience water shortages or outages, and the system's ability to provide a safe and reliable supply of water could be compromised.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 5 Number of violation days 903

daily	
monthly	
quarterly	
semiannual	x
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

Five semiannual events are recommended, calculated from the effective date of Agreed Order Docket No. 2004-0494-PWS-E, November 11, 2004, to the date of screening, May 3, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,185

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

Economic Benefit Worksheet

Respondent Walnut Creek Special Utility District

Case ID No. 33510

Reg. Ent. Reference No. RN101190056

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	11-Nov-2004	31-Mar-2008	3.4	\$56	\$1,129	\$1,185
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 increase the production and treatment capacity to a minimum of 0.48 gpm per retail connection, plus the ability to meet all contractual wholesale obligations, calculated from the effective date of the Order, to the estimated 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/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

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,185

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for TTHM during the second, third, and fourth quarter of 2002 and first quarter of 2003.

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	07/09/2002	(677)
2	04/07/2003	(27470)
3	01/15/2004	(254835)
4	03/24/2005	(349926)
5	04/26/2005	(375429)
6	03/26/2006	(459250)
7	07/19/2006	(486780)
8	07/26/2006	(465533)
9	04/19/2007	(554321)

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

Date: 04/03/2003 (27470)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(e)(1)
30 TAC Chapter 290, SubChapter D 290.45(e)(2)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a raw water pump capacity of at least 0.48 gpm per retail connection plus meet all wholesale contract obligations. Specifically, system must provide a raw water pumping capacity of 3,516 gpm with the largest pump out of service and the system's capacity on the day of investigation was 3,300 gpm

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(e)(1)
30 TAC Chapter 290, SubChapter D 290.45(e)(2)
5A THC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: ORDER Ordering Provision 2.a.i.

Description: Failure to provide adequate production capacity for the retail and wholesale connections. Specifically, with an alternative production capacity requirement of 0.48 gpm per connection, Walnut Creek SUD should be producing a minimum of 4,275 gallons of treated water per minute for the 5,364 retail connections and with a contractual obligation of 1,700 gpm for the wholesale connections. Walnut Creek SUD currently provides only 3,472 gpm of production capacity, which is a 19% deficiency.

Date: 03/15/2005 (349926)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)
Description: Additional raw water pumpage required.

Date: 03/24/2006 (459250)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(e)(1)
30 TAC Chapter 290, SubChapter D 290.45(e)(2)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a raw water pump capacity of at least 0.48 gpm per retail connection plus meet all wholesale contract obligations. Specifically, system must provide a raw water pumping capacity of 3,516 gpm with the largest pump out of service and the system's capacity on the day of investigation was 3,300 gpm

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(G)
5A THC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: ORDER Ordering Provision 2.a.ii.

Description: Failed to have a minimum elevated storage tank capacity of at least 100 gallons per connection above the highest service connection in Pressure Zone No. 2. Specifically, the Agnes Standpipe sits at an elevation of 1200 feet above sea level, which is the same elevation of the highest connection served by the Agnes Standpipe. Thus, Walnut Creek SUD is 100% deficient for elevated storage capacity because none of the capacity of the Agnes Standpipe sits above the highest service connection.

Self Report? NO

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Rqmt Prov: ORDER Ordering Provisions 2.a.i. and 2.a.ii.

Description: Failure to comply with the Ordering Provisions of Commission Order 2004-0494-PWS-E.
Date: 08/03/2006 (486780)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(e)(1)
30 TAC Chapter 290, SubChapter D 290.45(e)(2)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to provide a raw water pump capacity of at least 0.48 gpm per retail connection plus meet all wholesale contract obligations. Specifically, system must provide a raw water pumping capacity of 3,516 gpm with the largest pump out of service and the system's capacity on the day of investigation was 3,300 gpm
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(e)(1)
30 TAC Chapter 290, SubChapter D 290.45(e)(2)
5A THC Chapter 341, SubChapter A 341.0315(c)
Rqmt Prov: ORDER Ordering Provision 2.a.i.
Description: Failure to provide adequate production capacity for the retail and wholesale connections. Specifically, with an alternative production capacity requirement of 0.48 gpm per connection, Walnut Creek SUD should be producing a minimum of 4,275 gallons of treated water per minute for the 5,364 retail connections and with a contractual obligation of 1,700 gpm for the wholesale connections. Walnut Creek SUD currently provides only 3,472 gpm of production capacity, which is a 19% deficiency.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(G)
5A THC Chapter 341, SubChapter A 341.0315(c)
Rqmt Prov: ORDER Ordering Provision 2.a.ii.
Description: Failed to have a minimum elevated storage tank capacity of at least 100 gallons per connection above the highest service connection in Pressure Zone No. 2. Specifically, the Agnes Standpipe sits at an elevation of 1200 feet above sea level, which is the same elevation of the highest connection served by the Agnes Standpipe. Thus, Walnut Creek SUD is 100% deficient for elevated storage capacity because none of the capacity of the Agnes Standpipe sits above the highest service connection.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)
Description: Additional raw water pumpage required.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to provide an adequate treatment plant capacity under normal rated design flow. Specifically, with an alternative production capacity requirement of 0.48 gpm per connection, Walnut Creek SUD should be producing a minimum of 4,275 gpm for the 5,364 retail connections and with a contractual obligation of 1,700 gpm for the wholesale connections. Walnut Creek currently provides only 3,472 gpm of production capacity, which is 19% deficient.

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 WALNUT CREEK SPECIAL UTILITY DISTRICT; RN101190056	§ § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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**AGREED ORDER
DOCKET NO. 2007-0782-PWS -E**

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Walnut Creek Special Utility District ("Walnut Creek SUD") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and 30 TEX. ADMIN. CODE ch. 290. The Executive Director of the TCEQ, represented by the Litigation Division, and Walnut Creek SUD, presented this agreement to the Commission.

Walnut Creek SUD 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, Walnut Creek SUD 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 Walnut Creek SUD.

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

FINDINGS OF FACT

1. Walnut Creek SUD owns and operates public water system located at 1150 Highway 199, Springtown, Parker County, Texas (the "Facility").
2. The Facility has 5,364 service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(47).

3. During a record review conducted on March 19, 2007, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Walnut Creek SUD failed to provide adequate production capacity and treatment plant capacity for the retail and wholesale connections under normal rated design flow. Specifically, with an alternative production and treatment plant capacity requirement of 0.48 gallons per minute ("gpm") per connection, Walnut Creek SUD should be producing a minimum of 4,275 gallons of treated water per minute; 2,575 gpm for the 5,364 retail connections and 1,700 gpm for its contractual obligations to the wholesale connections. Walnut Creek SUD currently provides only 3,472 gpm of treated water, which is a 19% deficiency.
4. Walnut Creek SUD received notice of the violations on or about April 28, 2007.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Walnut Creek SUD is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, Walnut Creek SUD failed to provide adequate production capacity and treatment plant capacity for the retail and wholesale connections under normal rated design flow, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE §§ 290.45(e)(1) and (2) and 290.45(b)(2)(B); and Agreed Order Docket No. 2004-0494-PWS-E, Ordering Provision 2.a.i.
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Walnut Creek SUD for violations of the TEX. HEALTH & SAFETY CODE within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of two thousand dollars (\$2,000.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Walnut Creek SUD has paid two thousand dollars (\$2,000.00) of the administrative penalty.

ORDER

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

1. Walnut Creek SUD is assessed an administrative penalty in the amount of two thousand dollars (\$2,000.00) as set forth in Conclusions of Law No. 4 for violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission. ~~The payment of this administrative penalty and Walnut Creek SUD'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: Walnut Creek Special Utility District; Docket No. 2007-0782-PWS-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. Walnut Creek SUD shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, Walnut Creek SUD shall provide a minimum production and treatment plant capacity of 0.48 gpm per retail connection while still providing proper capacity for all contractual obligations, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - b. Within 380 days after the effective date of this Agreed Order, Walnut Creek SUD shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Walnut Creek SUD shall submit copies of documentation necessary 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:

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Walnut Creek SUD. Walnut Creek SUD is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Walnut Creek SUD shall be made in writing to the Executive Director. Extensions are not effective until Walnut Creek SUD receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Walnut Creek SUD if the Executive Director determines that Walnut Creek SUD has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against Walnut Creek SUD in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

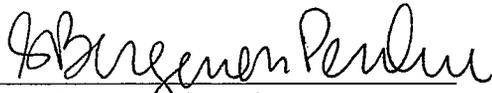
transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

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9. 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 of this Agreed Order is the date of hand-delivery of the Order to Walnut Creek SUD, or three days after the date on which the Commission mails notice of the Order to Walnut Creek SUD, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

2/27/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 my failure to comply with the Ordering Provisions, if any, in this order and/or Walnut Creek Special Utility District's failure to timely pay the penalty amount, may result in:

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

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution


Signature

December 19, 2007
Date

Jerry Holsomback
Name (Printed or typed)
Authorized Representative
Walnut Creek Special Utility District

General Manager
Title