

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-0572-MLM-E **TCEQ ID:** RN100676220 **CASE NO.:** 35676  
**RESPONDENT NAME:** Wendland Manufacturing Corp.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input checked="" type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input checked="" type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input checked="" type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Wendland Manufacturing, 601 West 11th Street, San Angelo, Tom Green County</p> <p><b>TYPE OF OPERATION:</b> Steel tank manufacturing</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 September 22, 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. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Wayne McCune, President, Wendland Manufacturing Corp., 601 West 11th Street, San Angelo, Texas 76903  Mr. Victor Underwood, President, Wendland Manufacturing Corp., 601 West 11th Street, San Angelo, Texas 76903  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input 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> February 11, 2008</p> <p><b>Date of NOE Relating to this Case:</b> March 4, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to prevent the unauthorized use of underground injection wells to dispose of industrial solid waste. Specifically, the investigator documented the removal of two Class V injection wells which had been utilized to dispose of wastewater generated from the development of x-ray images. Analysis of a soil sample obtained from the bottom of the first well revealed the following: (1) acetone (0.0379 milligrams per kilogram (mg/kg)); (2) carbon disulfide (0.021 mg/kg); (3) methyl ethyl ketone (0.103 mg/kg); (4) tetrachloroethylene (0.0061 mg/kg); (5) xylene (0.00061 mg/kg); (6) total petroleum hydrocarbons ("TPH") (C6-C12) (25.4 mg/kg); (7) TPH (&gt;C12-C28) (63 mg/kg); (8) TPH (&gt;C28 - C35) (85 mg/kg); (9) TPH (C6-C35) (173 mg/kg); (10) arsenic (1.3 mg/kg); (11) barium (58.8 mg/kg), (12) chromium (5.9 mg/kg); (13) copper (4.0 mg/kg); (14) lead (4.5 mg/kg); (15) vanadium (18.3 mg/kg); and (16) zinc (16.8 mg/kg) [30 TEX. ADMIN. CODE §§ 331.3(a) and (c), 331.7(a), 335.2(a), and 335.4, TEX. WATER CODE §§ 26.121(a) and 27.011, and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 144.11].</p> <p>2) Failure to submit the inventory information for the Class V injection wells [30 TEX. ADMIN. CODE § 331.10(d) and 40 CFR §144.26].</p>	<p><b>Total Assessed:</b> \$6,420</p> <p><b>Total Deferred:</b> \$1,284  <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> \$5,136</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>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent removed both Class V injection wells from the ground on February 11, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of Agreed Order, complete tie-in with, and begin discharging all x-ray developer wastewater to the City of San Angelo Publicly Owned Treatment Works;</p> <p>b) Within 30 days after the effective date of this Agreed Order, submit the inventory information for the Class V injection wells;</p> <p>c) Within 30 days after the effective date of this Agreed Order, submit a plan and schedule for closure of the Class V injection wells. Upon approval, the timeframes set forth in the plan and schedule shall be incorporated as part of this Agreed Order. The Respondent shall respond to any request(s) for information from TCEQ in connection with the closure of the Class V injection wells in accordance with the approved plan and schedule; and</p> <p>d) Within 15 days after the completion of Ordering Provisions 2.a. and b. and each timeframe approved in 2.c., submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through c.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	10-Mar-2008			
	<b>PCW</b>	11-Apr-2006	<b>Screening</b>	4-Apr-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Wendland Manufacturing Corp.		
<b>Reg. Ent. Ref. No.</b>	RN100676220		
<b>Facility/Site Region</b>	8-San Angelo	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35676	<b>No. of Violations</b>	2
<b>Docket No.</b>	2008-0572-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Underground Injection Control	<b>Enf. Coordinator</b>	Michael Meyer
<b>Multi-Media</b>	Industrial and Hazardous Waste	<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	7% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$420
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**Notes**  
The Respondent had one previous NOV for same or similar violations and one NOV for dissimilar violations during the previous five years.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	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.

	0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$1,712	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$80,200		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,420
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$6,420
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,420
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	\$1,284
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,136
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Screening Date 4-Apr-2008

Docket No. 2008-0572-MLM-E

PCW

Respondent Wendland Manufacturing Corp.

Policy Revision 2 (September 2002)

Case ID No. 35676

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN100676220

Media [Statute] Underground Injection Control

Enf. Coordinator Michael Meyer

## 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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

## &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

The Respondent had one previous NOV for same or similar violations and one NOV for dissimilar violations during the previous five years.

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

**Screening Date** 4-Apr-2008 **Docket No.** 2008-0572-MLM-E **PCW**  
**Respondent** Wendland Manufacturing Corp. *Policy Revision 2 (September 2002)*  
**Case ID No.** 35676 *PCW Revision February 29, 2008*  
**Reg. Ent. Reference No.** RN100676220  
**Media [Statute]** Underground Injection Control  
**Enf. Coordinator** Michael Meyer

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 331.3(a) and (c), 331.7(a), 335.2(a), and 335.4; Tex. Water Code §§ 26.121(a) and 27.011, and 40 Code of Federal Regulations ("CFR") § 144.11  
**Violation Description**  
 Failed to prevent the unauthorized use of underground injection wells to dispose of industrial solid waste, as documented during an investigation conducted on February 11, 2008. Specifically, the investigator documented the removal of two Class V injection wells used to dispose of wastewater generated from the development of x-ray images. Analysis of a soil sample obtained from the bottom of the first well revealed following: (1) acetone (0.0379 milligrams per kilogram (mg/kg)), (2) carbon disulfide (0.0021 mg/kg), (3) methyl ethyl ketone (0.0103 (mg/kg)), (4) tetrachloroethylene (0.0061 mg/kg), (5) xylene (0.00061 mg/kg), (6) total petroleum hydrocarbons (TPH) (C6-C12) (25.4 mg/kg), (7) TPH (>C12-C28) (63 mg/kg), (8) TPH (>C28 - C35) (85 mg/kg), (9) TPH (C6-C35) (173 mg/kg), (10) arsenic (1.3 mg/kg), (11) barium (58.8 mg/kg), (12) chromium (5.9 mg/kg), (13) copper (4.0 mg/kg), (14) lead (4.5 mg/kg), (15) vanadium (18.3 mg/kg), and (16) zinc (16.8 mg/kg).  
**Base Penalty** \$10,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment.  
**Adjustment** \$7,500

**Adjustment** \$2,500

**Violation Events**

Number of Violation Events  Number of violation days   
 mark only one with an x  

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$5,000  
 Two quarterly events are recommended (one quarterly event per each injection well) from the February 11, 2008 investigation date to the April 4, 2008 screening date.

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

**Estimated EB Amount** \$1,712 **Violation Final Penalty Total** \$5,350  
**This violation Final Assessed Penalty (adjusted for limits)** \$5,350

### Economic Benefit Worksheet

**Respondent:** Wendland Manufacturing Corp.  
**Case ID No.:** 35676  
**Reg. Ent. Reference No.:** RN100676220  
**Media:** Underground Injection Control  
**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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**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	\$25,000	11-Feb-2008	30-Nov-2008	0.8	\$1,003	n/a	\$1,003
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$55,000	11-Feb-2008	15-May-2008	0.3	\$708	n/a	\$708

**Notes for DELAYED costs**

Estimated cost to tie into the City of San Angelo Publicly Owned Treatment Works ("POTW") and to close the Class V injection wells in accordance with rules and regulations. The Date Required is the February 11, 2008 investigation. The Final Dates are the date the Respondent is projected to begin discharging to the City of San Angelo POTW (May 15, 2008) and the projected date for completion of closure of the Class V injection wells.

**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**

\$80,000

**TOTAL**

\$1,712

**Screening Date** 4-Apr-2008 **Docket No.** 2008-0572-MLM-E **PCW**  
**Respondent** Wendland Manufacturing Corp. *Policy Revision 2 (September 2002)*  
**Case ID No.** 35676 *PCW Revision February 29, 2008*  
**Reg. Ent. Reference No.** RN100676220  
**Media [Statute]** Underground Injection Control  
**Enf. Coordinator** Michael Meyer

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**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**

**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**

**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:** Wendland Manufacturing Corp.

**Case ID No.:** 35676

**Reg. Ent. Reference No.:** RN100676220

**Media:** Underground Injection Control

**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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)	\$200	11-Feb-2008	30-Nov-2008	0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit the inventory information for the Class V injection wells. The Date Required is the February 11, 2008 investigation and the Final Date is the projected 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

\$200

TOTAL

\$0

## Compliance History

Customer/Respondent/Owner-Operator:	CN600383731 Wendland Manufacturing Corp.	Classification: AVERAGE	Rating: 5.00
Regulated Entity:	RN100676220 WENDLAND MANUFACTURING	Classification: AVERAGE	Site Rating: 5.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008028110
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	39150
	STORMWATER	PERMIT	TXR05U056
Location:	601 W 11TH ST, SAN ANGELO, TX, 76903		Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 08 - SAN ANGELO		
Date Compliance History Prepared:	April 22, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 23, 2003 to April 22, 2008		

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

Name: Michael Meyer Phone: Michael Meyer

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership 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 | 05/14/2003 | (34099)  |
| 2 | 09/17/2003 | (249087) |
| 3 | 12/17/2007 | (612036) |
| 4 | 02/26/2008 | (636505) |
| 5 | 03/04/2008 | (637198) |

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

Date: 05/14/2003 (34099)

Self Report? NO

Classification: Minor

Citation: TWC Chapter 26 26.121.

Rqmt Prov: OP TXR050000

Description: Failure to identify non-storm water discharges that qualify for permit coverage in the SWP3.

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121

Rqmt Prov: OP TXR050000

Description: Failure to eliminate non-storm water sources not eligible for permit coverage.

Self Report? NO

Classification: Minor

Citation: TWC Chapter 26 26.121

Rqmt Prov: OP TXR050000

Description: Failure to describe all activities that potentially contribute pollutants to storm water in the narrative.

Self Report?	NO	Classification:	Moderate
Citation:	TWC Chapter 26 26.121		
Rqmt Prov:	OP TXR050000		
Description:	Failure to implement and maintain good housekeeping procedures.		
Self Report?	NO	Classification:	Minor
Citation:	TWC Chapter 26 26.121		
Rqmt Prov:	OP TXR050000		
Description:	Failure to develop BMPs based on all activities and potentials for contamination.		
Self Report?	NO	Classification:	Moderate
Citation:	TWC Chapter 26 26.121		
Rqmt Prov:	OP TXR050000		
Description:	Failure to conduct quarterly inspections for the first four quarters of permit authorization.		
Self Report?	NO	Classification:	Moderate
Citation:	TWC Chapter 26 26.121		
Description:	Managing an industrial waste such that it could cause an unauthorized discharge to water in the state		
Date:	12/17/2007 (612036)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter A 335.4		
Description:	Failure to manage industrial solid waste in a manner protective of the environment.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter C 335.62		
Description:	Failure to conduct hazardous waste determinations.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 335, SubChapter R 335.503(a)		
Description:	Failure to properly classify industrial solid wastes.		

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  
WENDLAND MANUFACTURING  
CORP.  
RN100676220

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-0572-MLM-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 Wendland Manufacturing Corp. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7, 26 and 27. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a steel tank manufacturing facility at 601 West 11<sup>th</sup> Street in San Angelo, Tom Green County, Texas (the "Facility").
2. The Respondent is utilizing, has begun drilling, or is converting injection wells as that term is defined in TEX. WATER CODE § 27.002(11).
3. The Facility involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
5. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
6. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 9, 2008.

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
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7. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
8. An administrative penalty in the amount of Six Thousand Four Hundred Twenty Dollars (\$6,420) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand One Hundred Thirty-Six Dollars (\$5,136) of the administrative penalty and One Thousand Two Hundred Eighty-Four Dollars (\$1,284) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
9. 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.
10. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
11. The Executive Director recognizes that the Respondent removed both Class V injection wells from the ground on February 11, 2008.
12. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
13. 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.
14. 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 Respondent is alleged to have:

1. Failed to prevent the unauthorized use of underground injection wells to dispose of industrial solid waste, in violation of 30 TEX. ADMIN. CODE §§ 331.3(a) and (c), 331.7(a), 335.2(a), and 335.4; TEX. WATER CODE §§ 26.121(a) and 27.011, and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 144.11, as documented during an investigation conducted on February 11, 2008. Specifically, the investigator documented the removal of two Class V injection wells which had been utilized to dispose of wastewater generated from the development of x-ray images. Analysis of a soil sample obtained from the bottom of the first well revealed the following: 1) acetone (0.0379 milligrams per kilogram (mg/kg)); 2) carbon disulfide (0.021 mg/kg); 3) methyl ethyl ketone (0.103mg/kg); 4) tetrachloroethylene (0.0061 mg/kg); 5) xylene (0.00061 mg/kg); 6) total



petroleum hydrocarbons ("TPH") (C6-C12) (25.4 mg/kg); 7) TPH (>C12-C28) (63 mg/kg); 8) TPH (>C28 - C35) (85 mg/kg); 9) TPH (C6-C35) (173 mg/kg); 10) arsenic (1.3 mg/kg); 11) barium (58.8 mg/kg); 12) chromium (5.9 mg/kg); 13) copper (4.0 mg/kg); 14) lead (4.5 mg/kg); 15) vanadium (18.3 mg/kg); and 16) zinc (16.8 mg/kg).

2. Failed to submit the inventory information for the Class V injection wells, in violation of 30 TEX. ADMIN.CODE § 331.10(d) and 40 CFR § 144.26, as documented during an investigation conducted on February 11, 2008.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 8 above. The payment of this administrative penalty and the Respondent'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: Wendland Manufacturing Corp., Docket No. 2008-0572-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, complete tie-in with, and begin discharging all x-ray developer wastewater to the City of San Angelo Publicly Owned Treatment Works.
  - b. Within 30 days after the effective date of this Agreed Order, submit the inventory information for the Class V injection wells to:

Underground Injection Control Program, MC 130  
Texas Commission on Environmental quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 30 days after the effective date of this Agreed Order, submit a plan and schedule for closure of the Class V injection wells in accordance with 30 TEX. ADMIN. CODE § 331.133, for review, possible modification, and approval. Upon approval, the timeframes



set forth in the plan and schedule shall be incorporated as part of this Agreed Order. The plan and schedule 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 copies to:

Underground Injection Control Program, MC 130  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and to:

Environmental Cleanup, MC 137 or 221  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

The Respondent shall respond to any request(s) for information from either of the above program areas necessary to complete closure of the Class V injection wells in accordance with the approved plan and schedule.

- d. Within 15 days after the completion of Ordering Provisions Nos. 2.a. and b. and each timeframe approved in 2.c., submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2. a. through c.

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 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:

Waste Section, Manager  
San Angelo Regional Office  
Texas Commission on Environmental Quality  
622 South Oakes, Suite K  
San Angelo, Texas 76903-7013

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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 Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



Wendland Manufacturing Corp.  
DOCKET NO. 2008-0572-MLM-E  
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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John Bradley*  
For the Executive Director

9/26/2008  
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.

*Wayne McCune*  
Signature

9-11-08  
Date

WAYNE McCUNE  
Name (Printed or typed)  
Authorized Representative of  
Wendland Manufacturing Corp.

PRESIDENT  
Title

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

