

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2009-0627-MWD-E **TCEQ ID:** RN102074879 **CASE NO.:** 37512  
**RESPONDENT NAME:** City of Wellman

<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 type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input 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 checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input 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> City of Wellman STP, located approximately 0.25 mile north and 1.2 miles east of the City of Wellman, Terry 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 one additional pending enforcement action regarding this facility location, Docket No. 2009-1145-MWD-E.</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 October 5, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Kent Davis, Mayor, City of Wellman, P. O. Box 124, Wellman, Texas 79378  <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 Record Review Relating to this Case:</b> March 11, 2009</p> <p><b>Date of NOV Relating to this Case:</b> March 20, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review.</p> <p><b>WATER</b></p> <p>1) Failure to submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TCEQ Permit No. WQ0013642001, Sludge Provisions].</p> <p>2) Failure to comply with permitted effluent limits for five day biochemical oxygen demand and pH [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0013642001, Effluent Limitations and Monitoring Requirements A].</p> <p>3) Failure to maintain and operate the collection facility in order to achieve optimum efficiency of treatment capability [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0013642001, Special Provision No. 3].</p>	<p><b>Total Assessed:</b> \$6,720</p> <p><b>Total Deferred:</b> \$1,344  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$5,376</p> <p><b>Total Paid to General Revenue:</b> \$0</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>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SBP Attachment A).</p> <p>2) The Order will also require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including procedures to ensure that the annual sludge reports are properly submitted to the TCEQ;</p> <p>b) Within 30 days after the effective date of this Agreed Order, submit the 2008 annual sludge report for the Facility;</p> <p>c) Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a and 2.b;</p> <p>d) Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0013642001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current monthly monitoring records, demonstrating at least three consecutive months of compliance with all permitted effluent limitations;</p> <p>e) Within 180 days after the effective date of this Agreed Order, repair or replace the corroded mounting brackets for the alternate pump in the main lift station;</p> <p>f) Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.e.; and</p> <p>g) The written certification of compliance required by Ordering Provision Nos. 2.c,</p>

		2.d, and 2.f shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.
--	--	---

Additional ID No(s): Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0013642001



Attachment A  
Docket Number: 2009-0627-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Wellman  
**Payable Penalty Amount:** Five Thousand Three Hundred Seventy-Six Dollars (\$5,376)  
**SEP Amount:** Five Thousand Three Hundred Seventy-Six Dollars (\$5,376)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up  
**Location of SEP:** Terry County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.



City of Wellman  
Agreed Order – Attachment A

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.



**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	23-Mar-2009	<b>Screening</b>	16-Apr-2009	<b>EPA Due</b>	
	<b>PCW</b>	19-May-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Wellman		
<b>Reg. Ent. Ref. No.</b>	RN102074879		
<b>Facility/Site Region</b>	2-Lubbock	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	37512	<b>No. of Violations</b>	3	
<b>Docket No.</b>	2009-0627-MWD-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Pamela Campbell	
		<b>EC's Team</b>	Enforcement Team 1	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   Enhancement **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$1,353
Approx. Cost of Compliance	\$10,350

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

**Screening Date** 16-Apr-2009

**Docket No.** 2009-0627-MWD-E

**PCW**

**Respondent** City of Wellman

Policy Revision 2 (September 2002)

**Case ID No.** 37512

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102074879

**Media [Statute]** Water Quality

**Enf. Coordinator** Pamela Campbell

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	2	10%
	Other written NOV's	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)** 12%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The Respondent has two NOV's for the same violations and one NOV for unrelated violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 12%

**Screening Date** 16-Apr-2009 **Docket No.** 2009-0627-MWD-E **PCW**  
**Respondent** City of Wellman *Policy Revision 2 (September 2002)*  
**Case ID No.** 37512 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102074879  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Pamela Campbell  
**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(17) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0013642001, Sludge Provisions  
**Violation Description** Failed to submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, as documented during the March 11, 2009 record review.  
**Base Penalty** \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes: 100% of this permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 Number of violation days: 227

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$26

Statutory Limit Test

Violation Final Penalty Total \$1,120

This violation Final Assessed Penalty (adjusted for limits) \$1,120

## Economic Benefit Worksheet

**Respondent** City of Wellman  
**Case ID No.** 37512  
**Reg. Ent. Reference No.** RN102074879  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Sep-2008	31-Dec-2009	1.33	\$0	\$9	\$9
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	1-Sep-2008	31-Dec-2009	1.33	\$17	n/a	\$17
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

This is the estimated cost to prepare and submit the annual sludge report. The date required is the date the 2008 sludge report was due and the final date is the anticipated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$350

TOTAL

\$28

<b>Screening Date</b> 16-Apr-2009	<b>Docket No.</b> 2009-0627-MWD-E	<b>PCW</b>		
<b>Respondent</b> City of Wellman		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37512		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102074879				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Pamela Campbell				
<b>Violation Number</b> 2				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TCEQ Permit No. WQ0013642001, Effluent Limitations and Monitoring Requirements A			
<b>Violation Description</b>	Failed to comply with permitted effluent limits, as documented during the March 11, 2009 record review and as shown in the attached table.			
	<b>Base Penalty</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
	<b>Harm</b>			
<b>Release</b>	Major	Moderate	Minor	
<b>Actual</b>			x	
<b>Potential</b>				
<b>OR</b>			Percent	
			10%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
				Percent
				0%
<b>Matrix Notes</b>	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 as a result of the violation.			
	<b>Adjustment</b>	\$9,000		
		\$1,000		
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	4	<b>Number of violation days</b>	
		304		
<small>mark only one with an x</small>	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
			<b>Violation Base Penalty</b>	
			\$4,000	
Four quarterly events are recommended.				
<b>Good Faith Efforts to Comply</b>				
	0.0% Reduction		\$0	
	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary				
Ordinary				
N/A	x	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
	<b>Violation Subtotal</b>	\$4,000		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$699	<b>Violation Final Penalty Total</b>	\$4,480	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$4,480	

## Economic Benefit Worksheet

**Respondent** City of Wellman  
**Case ID No.** 37512  
**Reg. Ent. Reference No.** RN102074879  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Item Description:** No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	1-Mar-2008	28-Feb-2010	2.00	\$33	\$666	\$699
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 This is the estimated cost to evaluate the treatment units and determine the causes for the Facility's noncompliance. The date required is the date the noncompliance began and the final date is the anticipated date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$5,000 **TOTAL** \$699

<b>Screening Date</b> 16-Apr-2009	<b>Docket No.</b> 2009-0627-MWD-E																			
<b>Respondent</b> City of Wellman	<b>PCW</b> <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>																			
<b>Case ID No.</b> 37512																				
<b>Reg. Ent. Reference No.</b> RN102074879																				
<b>Media [Statute]</b> Water Quality																				
<b>Enf. Coordinator</b> Pamela Campbell																				
<b>Violation Number</b> 3																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0013642001, Special Provisions No. 3																			
<b>Violation Description</b>	Failed to maintain and operate the collection facility in order to achieve optimum efficiency of treatment capability, as documented during the March 11, 2009 record review. Specifically, the main lift station mounting brackets for the alternate pump were corroded; thereby, making the pump unusable and unserviceable.																			
<b>Base Penalty</b>	\$10,000																			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
<b>OR</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> <td></td> </tr> <tr> <td><b>Release</b></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td><b>Actual</b></td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;"><b>Percent</b> 10%</td> </tr> <tr> <td><b>Potential</b></td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> </table>		<b>Harm</b>				<b>Release</b>	Major	Moderate	Minor		<b>Actual</b>				<b>Percent</b> 10%	<b>Potential</b>		x	
	<b>Harm</b>																			
<b>Release</b>	Major	Moderate	Minor																	
<b>Actual</b>				<b>Percent</b> 10%																
<b>Potential</b>		x																		
<b>&gt;&gt; Programmatic Matrix</b>																				
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td><b>Falsification</b></td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;"><b>Percent</b> 0%</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Major	Moderate	Minor		<b>Falsification</b>				<b>Percent</b> 0%									
	Major	Moderate	Minor																	
<b>Falsification</b>				<b>Percent</b> 0%																
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed protective levels.																			
<b>Adjustment</b>	\$9,000																			
	\$1,000																			
<b>Violation Events</b>																				
<b>Number of Violation Events</b>	1																			
	36 <b>Number of violation days</b>																			
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event						
daily																				
weekly																				
monthly																				
quarterly	x																			
semiannual																				
annual																				
single event																				
<b>Violation Base Penalty</b>	\$1,000																			
	One quarterly event is recommended from the record review date (March 11, 2009) to the screening date (April 16, 2009).																			
<b>Good Faith Efforts to Comply</b>																				
	0.0% Reduction																			
	Before NOV    NOV to EDPRP/Settlement Offer																			
<b>Extraordinary</b>																				
<b>Ordinary</b>																				
<b>N/A</b>	x (mark with x)																			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																			
<b>Violation Subtotal</b>	\$1,000																			
<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>																			
<b>Estimated EB Amount</b>	\$628																			
<b>Violation Final Penalty Total</b>	\$1,120																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,120																			

## Economic Benefit Worksheet

**Respondent** City of Wellman  
**Case ID No.** 37512  
**Reg. Ent. Reference No.** RN102074879  
**Media** Water Quality  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	16

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

No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	14-Aug-2008	31-May-2010	1.79	\$30	\$598	\$628
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost associated with replacing the mounting brackets for the alternate pump. Date required is the date the violation was initially documented and the final date is the anticipated date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$5,000	<b>TOTAL</b>	\$628
-----------------------------------	---------	--------------	-------

EFFLUENT VIOLATION TABLE										
City of Wellman										
TCEQ Permit No. W00013642001										
Docket No. 2009-0627-MWD-E										
Permitted Effluent Limits	Monitoring Period End Date									
	Mar-08	Apr-08	May-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09
BOD <sub>5</sub> daily avg. conc. 20 mg/L	52.1	79.1	134	36.7	32	32.3	34.3	28.6	32.3	32.2
pH max. 9.0 standard units	c	c	c	9.4	9.5	c	c	c	c	c

avg. = average

min. = minimum

c = compliant

mg/L = milligrams per liter

BOD<sub>5</sub> = biochemical oxygen demand

max. = maximum



## Compliance History Report

Customer/Respondent/Owner-Operator: CN601120769 City of Wellman Classification: AVERAGE  
 Regulated Entity: RN102074879 CITY OF WELLMAN STP Classification: AVERAGE  
 ID Number(s): WASTEWATER PERMIT  
 Location: APPR. 0.25 MILE N AND 1.2 MILES E OF  
 WELLMAN, TERRY COUNTY  
 TCEQ Region: REGION 02 - LUBBOCK  
 Date Compliance History Prepared: April 14, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: April 14, 2004 to April 14, 2009  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Pamela Campbell Phone: 239 - 4493

Rating: 3.40  
 SiteRating: 3.40  
 WQ0013642001

### 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/operator of the site during the compliance period? | No  |
| 3. If Yes, who is the current owner/operator?  | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ?   | N/A |
| 5. When did the change(s) in owner or operator occur?  | N/A |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO   |     |

### 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	01/20/2005	(344786)
2	04/18/2005	(377956)
3	09/01/2005	(404383)
4	08/21/2008	(700103)
5	01/09/2009	(723061)
6	03/18/2009	(737076)
7	03/26/2009	(739776)

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

Date:	01/20/2005	(344786)	CN601120769		
Self Report?	NO			Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) Section IV, A., B. PERMIT				
Description:	Failure to maintain required effluent monitoring data				
Self Report?	NO			Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Section VI, Special Provision 3 PERMIT				
Description:	Failure to properly operate and maintain the wastewater treatment plant.				
Date:	08/22/2008	(700103)	CN601120769		
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Section I. B. (1) PERMIT Section III. (F) (2) PERMIT				
Description:	Failure to perform sludge testing requirement of Toxicity Characteristic Leaching Procedure (TCLP) and maintain required sludge testing records.				
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Section III. G. Reporting Requirements PERMIT				
Description:	Failure to provide required sludge disposal records.				
Self Report?	NO			Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring Requirements. 7. c. PERMIT				
Description:	Failure to perform required noncompliance notification as required.				
Self Report?	NO			Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Special Provision 10. PERMIT				
Description:	Failure to erect adequate signs stating the water is from a contaminated source and "Do not drink the water" in English and Spanish with the red slash superimposed over the international symbol for drinking water.				
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) A. Effluent Limitations PERMIT				
Description:	Failure to meet effluent quality limitations.				
Self Report?	NO			Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.5(b) B. Monitoring Requirements PERMIT				
Description:	Failure to conduct all required effluent monitoring requirements.				
Self Report?	NO			Classification:	Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Special Provislon 3. PERMIT  
Description: Failure to operate and maintain the collection facility.  
Date: 03/27/2009 (739776) CN601120769  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Special Provision 3. PERMIT  
Description: Failure to maintain adequate safeguards to prevent the discharge of untreated, or inadequately treated, wastes during electrical power failures by means of alternate power sources, stand-by generators, and / or retention of inadequately treated wastewater.

- 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF WELLMAN  
RN102074879

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0627-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 the City of Wellman ("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 located approximately 0.25 mile north and 1.2 miles east of the City of Wellman, Terry County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 March 25, 2009.
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 Six Thousand Seven Hundred Twenty Dollars (\$6,720) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Three Hundred Forty-Four Dollars (\$1,344) 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. Five Thousand Three Hundred Seventy-Six Dollars (\$5,376) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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 submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TCEQ Permit No. WQ0013642001, Sludge Provisions, as documented during a record review conducted on March 11, 2009.
2. Failed to comply with permitted effluent limits as shown in table below, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0013642001, Effluent Limitations and Monitoring Requirements A, as documented during a record review conducted on March 11, 2009 and shown in the following table:

**EFFLUENT VIOLATION TABLE**

Permitted Effluent Limits	Monitoring Period-End Date									
	Mar-08	Apr-08	May-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09
BOD <sub>5</sub> daily avg. conc. 20 mg/L	52.1	79.1	134	36.7	32	32.3	34.3	28.6	32.3	32.2
pH max. 9.0 standard units	c	c	c	9.4	9.5	c	c	c	c	c

avg. = average  
 c = compliant  
 BOD<sub>5</sub> = biochemical oxygen demand  
 max. = maximum  
 min. = minimum  
 mg/L = milligrams per liter

- Failed to maintain and operate the collection facility in order to achieve optimum efficiency of treatment capability, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0013642001, Special Provisions No. 3, as documented during a record review conducted on March 11, 2009. Specifically, the main lift station mounting brackets for the alternate pump were corroded; thereby, making the pump unusable and unserviceable.

**III. DENIALS**

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

**IV. ORDERING PROVISIONS**

- 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 Wellman, Docket No. 2009-0627-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

- The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Three Hundred Seventy-Six Dollars (\$5,376) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's

obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. 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, update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including procedures to ensure that the annual sludge reports are properly submitted to the TCEQ;
  - b. Within 30 days after the effective date of this Agreed Order, submit the 2008 annual sludge report for the Facility, in accordance with the requirements of 30 TEX. ADMIN. CODE § 305.125(17) and TCEQ Permit No. WQ0013642001, Sludge Provisions. This report shall be submitted to:

Compliance Monitoring Team (MC 224)  
Enforcement Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a and 3.b, in accordance with Ordering Provision No. 3.g, below;
- d. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TCEQ Permit No. WQ0013642001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current monthly monitoring records, demonstrating at least three consecutive months of compliance with all permitted effluent limitations;
- e. Within 180 days after the effective date of this Agreed Order, repair or replace the corroded mounting brackets for the alternate pump in the main lift station;
- f. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 3.e, in accordance with Ordering Provision No. 3.g, below; and
- g. The written certification of compliance required by Ordering Provision Nos. 3.c, 3.d, and 3.f shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 fines 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  
Lubbock Regional Office  
Texas Commission on Environmental Quality  
5012 50th Street, Suite 100  
Lubbock, Texas 79414-3421

4. 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.
5. 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.
6. 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.
7. 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

9. 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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Berlin  
For the Executive Director

9/18/09  
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.

Kent Davis  
Signature

8-6-09  
Date

Kent Davis  
Name (Printed or typed)  
Authorized Representative of  
City of Wellman

Mayor  
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.



**Attachment A**  
**Docket Number: 2009-0627-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Wellman  
**Payable Penalty Amount:** Five Thousand Three Hundred Seventy-Six Dollars (\$5,376)  
**SEP Amount:** Five Thousand Three Hundred Seventy-Six Dollars (\$5,376)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up  
**Location of SEP:** Terry County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

