

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1243-MWD-E **TCEQ ID:** RN101920635 **CASE NO.:** 36293

RESPONDENT NAME: City of Riesel

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Riesel Wastewater Treatment Facility, located 0.5 mile west of State Highway 6 on West Charles Street and on the east bank of West Sandy Creek, Riesel, McLennan County

TYPE OF OPERATION: Domestic wastewater treatment facility and disposal site

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint was received May 1, 2008, alleging that tail water from the City of Riesel Wastewater Treatment Facility irrigation was exiting the site. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 29, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team I, MC 169, (512) 239-2554; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: The Honorable David Guenat, Jr., Mayor, City of Riesel, P.O. Box 249, Riesel, Texas 76682

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: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 1, 2008</p> <p>Date of Investigation Relating to this Case: May 13, 2008</p> <p>Date of NOV/NOE Relating to this Case: July 8, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failure to to manage irrigation practices so as to prevent ponding of effluent and the occurrence of nuisance conditions. Specifically, the investigator documented excessive ponding on the back side of the land application area [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11015001, Special Provisions No. 4].</p> <p>2) Failure to prevent the unauthorized discharge of any wastewater into or adjacent to water in the state. Specifically, the investigator observed that wastewater ran off the application field into a storm water conveyance system which ultimately drained through a pipe into an ephemeral creek [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. 11015001, Standard Provisions No. 2.b.].</p>	<p>Total Assessed: \$1,950</p> <p>Total Deferred: \$390 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,560</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on May 14, 2008, the Respondent removed the pipe and ceased the unauthorized discharge of reclaimed municipal wastewater from the application field.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease irrigating reclaimed municipal wastewater when the ground is saturated;</p> <p>b. Within 30 days after the effective date of this Agreed Order, develop and implement procedures to maintain sufficient freeboard in the irrigation holding ponds to ensure that irrigating with reclaimed municipal wastewater does not occur when the ground is saturated; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and b.</p>

Additional ID No(s): WQ0011015001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	15-Jul-2008			
	PCW	1-Aug-2008	Screening	31-Jul-2008	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Riesel		
Reg. Ent. Ref. No.	RN101920635		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36293	No. of Violations	2
Docket No.	2008-1243-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,000
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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.

Compliance History	10.0% Enhancement	Subtotals 2, 3, & 7	\$200
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Notes: An enhancement is recommended due to two similar NOVs.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$22	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$750	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,950
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,950
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,950
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DEFERRAL	20.0% Reduction	Adjustment	-\$390
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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.

PAYABLE PENALTY	\$1,560
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Screening Date 31-Jul-2008	Docket No. 2008-1243-MWD-E	PCW
Respondent City of Riesel	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36293	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN101920635		
Media [Statute] Water Quality		
Enf. Coordinator Lanae Foard		

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 <i>(number of NOVs meeting criteria)</i>	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	An enhancement is recommended due to two similar NOVs.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 31-Jul-2008 **Docket No.** 2008-1243-MWD-E **PCW**
Respondent City of Riesel *Policy Revision 2 (September 2002)*
Case ID No. 36293 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101920635
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11015001, Special Provisions No. 4.
Violation Description Failed to manage irrigation practices so as to prevent ponding of effluent and the occurrence of nuisance conditions as documented during an investigation on May 13, 2008. Specifically, the investigator documented excessive ponding on the back side of the land application area.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes 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.

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

Violation Base Penalty

One quarterly event is recommended from the investigation date (May 13, 2008) to the screening date (July 31, 2008).

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: City of Riesel
Case ID No.: 36293
Reg. Ent. Reference No.: RN101920635
Media: Water Quality
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
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				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)	\$500	13-May-2008	1-Apr-2009	0.88	\$22	n/a	\$22

Notes for DELAYED costs

Estimated cost to develop and implement procedures to ensure that irrigating with reclaimed municipal wastewater does not occur when the ground is saturated. Date required is the date of the investigation. Final date is the expected 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

\$500

TOTAL

\$22

Screening Date	31-Jul-2008	Docket No.	2008-1243-MWD-E	PCW
Respondent	City of Riesel			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	36293			<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No.	RN101920635			
Media [Statute]	Water Quality			
Enf. Coordinator	Lanae Foard			

Violation Number	2
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11015001, Standard Provisions No. 2.b.
Violation Description	Failed to prevent the unauthorized discharge of any wastewater into or adjacent to water in the state. Specifically, the investigator observed that wastewater ran off the application field into a storm water conveyance system which ultimately drained through a pipe into an ephemeral creek.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
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.

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

Violation Base Penalty

One quarterly event is recommended from the investigation date (May 13, 2008) to the compliance date (May 14, 2008).

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes
The Respondent came back into compliance on May 14, 2008.

Violation Subtotal

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Riesel
Case ID No. 36293
Reg. Ent. Reference No. RN101920635
Media Water Quality
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
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				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)	\$250	13-May-2008	14-May-2008	0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to cease the unauthorized discharge of reclaimed municipal wastewater from the application field. Date required is the date of the investigation. Final date is the 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 \$250 **TOTAL** \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600339741	City of Riesel	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN101920635	CITY OF RIESEL	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	WASTEWATER	PERMIT		WQ0011015001
	WASTEWATER	PERMIT		TPDES0022993
	WASTEWATER LICENSING	LICENSE		WQ0011015001
Location:	located 0.5 mile west of State Highway 6 on West Charles Street and on the east bank of West Sandy Creek, Riesel, McLennan Co, Tx		Rating Date: 9/1/2007 Repeat Violator: NO	
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	July 18, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 18, 2003 to July 18, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Lanae Foard	Phone:	512-239-2554	

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 12/07/2007 (607462)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 05/07/2007 (553896)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 - Rqmt Prov: PERMIT Special Provisions VI No. 4 Pg. 17
 - Description: Failure by the permittee to prevent the ponding of effluent and discharge of any wastewater from the irrigated land.
 - Date: 10/19/2007 (594551)
 - Self Report? NO Classification: Moderate
 - Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 - Rqmt Prov: PERMIT Permit Conditions
 - Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)
 - Rqmt Prov: PERMIT Monitoring and Reporting Requirements
 - Description: Failure by the permittee to orally notify the TCEQ of an unauthorized discharge within 24 hours and provide written notification within 5 days of becoming aware of the noncompliance.
- 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

10/11/2019

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF RIESEL
RN101920635

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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1243-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 Riesel ("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 domestic wastewater treatment facility and disposal site located 0.5 mile west of State Highway 6 on West Charles Street and on the east bank of West Sandy Creek in Riesel, McLennan County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about July 13, 2008.
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 One Thousand Nine Hundred Fifty Dollars (\$1,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand Five Hundred Sixty Dollars (\$1,560) of the administrative

penalty and Three Hundred Ninety Dollars (\$390) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on May 14, 2008, the City removed the pipe and ceased the unauthorized discharge of reclaimed municipal wastewater from the application field.
10. 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.
11. 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.
12. 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 to manage irrigation practices so as to prevent ponding of effluent and the occurrence of nuisance conditions, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11015001, Special Provisions No. 4, as documented during an investigation conducted on May 13, 2008. Specifically, the investigator documented excessive ponding on the back side of the land application area.
2. Failed to prevent the unauthorized discharge of any wastewater into or adjacent to water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11015001, Standard Provisions No. 2.b. Specifically, the investigator observed that wastewater ran off the application field into a storm water conveyance system which ultimately drained through a pipe into an ephemeral creek.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Riesel, Docket No. 2008-1243-MWD-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease irrigating reclaimed municipal wastewater when the ground is saturated;
 - b. Within 30 days after the effective date of this Agreed Order, develop and implement procedures to maintain sufficient freeboard in the irrigation holding ponds to ensure that irrigating with reclaimed municipal wastewater does not occur when the ground is saturated; and
 - c. Within 45 days after the effective date of this Agreed Order, 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 and 2.b. 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."

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:

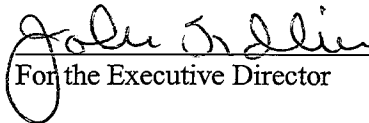
Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

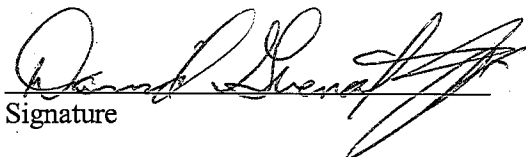
Date 11/23/2009

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

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

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

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



Signature

Date OCT 10 2008

David Guenat, Jr.
Name (Printed or typed)
Authorized Representative of
City of Riesel

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.

2008 3 7