

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-1160-MWD-E TCEQ ID: RN101720357 CASE NOS.: 25883 AND 36212**

**RESPONDENT NAME: CITY OF BIG WELLS**

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

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

**SITE WHERE VIOLATION(S) OCCURRED:** 2000 feet west of Farm-to-Market Road 1867 and 2200 feet south of U.S. Highway 85, Big Wells, Dimmit County

**TYPE OF OPERATION:** Wastewater treatment plant

**SMALL BUSINESS:**  Yes  No

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

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired February 9, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

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

**TCEQ Regional Contact:** Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052

**Respondent:** The Honorable Randall Matthews, Mayor, City of Big Wells, P.O. Box 68, Big Wells, Texas 78830

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> May 18, 2005 and May 21, 2008</p> <p><b>Dates of NOEs Relating to this Case:</b> June 1, 2005 and May 30, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed April 20, 2007. The Respondent filed an answer and the case was referred to SOAH. The Evidentiary hearing was held May 1, 2008. A settlement agreement was reached on May 12, 2008, prior to the issuance of a Proposal for Decision. An additional violation was subsequently added, and the final agreed order was signed December 11, 2008.</p> <p><b>MWD:</b></p> <p>1. Failed to meet the 5-day biochemical oxygen demand (BOD<sub>5</sub>) dissolved oxygen (DO), total suspended solids (TSS), and pH effluent limitations [30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (TPDES) Permit No. 13782001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, and TEX. WATER CODE § 26.121(a)].</p> <p>2. Failed to submit timely Discharge Monitoring Reports (DMRs) for the monitoring periods ending February and August 2004 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 13782001, Monitoring and Reporting Requirements No. 1].</p> <p>3. Failed to submit annual sludge reports [ 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13782001, Sludge Provisions].</p>	<p><b>Total Assessed:</b> \$9,030</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Paid / Due to General Revenue:</b> \$1,580/\$10,370</p> <p>The Respondent paid \$1,580 of the administrative penalty. The remaining amount of \$10,370 shall be payable in 35 monthly payments (one payment of \$360 and 34 payments of \$296).</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>The Executive Director recognizes that the Respondent performed the following corrective measures:</p> <ol style="list-style-type: none"> <li>1. On June 15, 2005, submitted DMR's for February and August 2004; and</li> <li>2. On July 28, 2008, submitted annual sludge reports for 2005 and 2006.</li> </ol> <p><b>Ordering Provisions:</b></p> <p>Within 180 days, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. 13782001.</p>

**Penalty Calculation Worksheet (PCW)**

Policy Revision 2 (September 2002) PCW Revision May 10, 2005

<b>TCEQ</b>	<b>DATES</b>	Assigned 06-Jun-2005			
	PCW	28-Feb-2007	Screening	14-Jun-2005	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Big Wells
Reg. Ent. Ref. No.	RN101720357
Facility/Site Region	16-Laredo
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	25883	No. of Violations	2
Docket No.	2005-1013-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Amy Martin
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

### Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$4,200

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

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

**Compliance History** 150% Enhancement **Subtotals 2, 3, & 7** \$6,300

Notes: The respondent has 28 months of self-reported effluent violations and two commission issued NOV's with same or similar violations.

**Culpability** No  0% Enhancement **Subtotal 4** \$0

Notes: Respondent did not meet culpability criterion.

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

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

Notes: Respondent is not yet in compliance.

**Economic Benefit** 0% Enhancement\* **Subtotal 6** \$0

Total EB Amounts	\$702	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$5,200	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$10,500

**OTHER FACTORS AS JUSTICE MAY REQUIRE** -14 Reduction **Adjustment** -\$1,470

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

Notes: Recommend reduction in penalty so that monthly self-reported violations do not overly impact the penalty amount.

**Final Penalty Amount** \$9,030

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$9,030

**DEFERRAL** 0% Reduction **Adjustment** \$0

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

Notes: No deferral offered.

**PAYABLE PENALTY** **\$9,030**

Screening Date 14-Jun-2005

Docket No. 2008-1160-MWD-E

PCW

Respondent City of Big Wells

Policy Revision 2 (September 2002)

Case ID No. 36212

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN101720357

Media [Statute] Water Quality

Enf. Coordinator Rebecca Clausewitz

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	30	150%
	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</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%
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%

Please Enter Yes or No

**Adjustment Percentage (Subtotal 2) 150%**

>> **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 28 months of self-reported effluent violations and two commission issued NOVs with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7) 150%**

Screening Date 14-Jun-2005

Docket No. 2008-1160-MWD-E

PCW

Respondent City of Big Wells

Policy Revision 2 (September 2002)

Case ID No. 36212

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN101720357

Media [Statute] Water Quality

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

30 TAC § 305.125(1), TPDES Permit No. 13782001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, and TWC § 26.121(a)

Failure to comply with the permitted effluent limits as shown in the attached violation table, as documented during a record review conducted on May 18, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent

Matrix Notes

A simplified model was utilized to evaluate the values for five day biochemical oxygen demand ("BOD5") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS"), dissolved oxygen ("DO") and pH were also considered. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 4

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended for non-compliance from February 2004 through January 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$699

Violation Final Penalty Total \$8,600

This violation Final Assessed Penalty (adjusted for limits) \$8,600

## Economic Benefit Worksheet

**Respondent** City of Big Wells  
**Case ID No.** 36212  
**Reg. Ent. Reference No.** RN101720357  
**Media [Statute]** 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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	01-Mar-2004	28-Feb-2006	2.0	\$33	\$666	\$699
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The date required is the date the noncompliances started and the final date is the expected date of compliance.

### Avoided Costs

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

Disposal				0.0	\$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 \$5,000

**TOTAL** \$699

Screening Date 14-Jun-2005

Docket No. 2008-1160-MWD-E

PCW

Respondent City of Big Wells

Policy Revision 2 (September 2002)

Case ID No. 36212

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN101720357

Media [Statute] Water Quality

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

30 TAC § 305.125(17), TPDES Permit No. 13782001, Monitoring and Reporting Requirements No. 1

Failure to submit timely discharge monitoring reports (DMR) for the monitoring periods ending February and August 2004, as documented during a record review conducted on May 18, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes Greater than 70% of the rule requirement was met.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 2

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$200

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$430

This violation Final Assessed Penalty (adjusted for limits) \$430

## Economic Benefit Worksheet

**Respondent:** City of Big Wells  
**Case ID No.:** 36212  
**Reg. Ent. Reference No.:** RN101720357  
**Media [Statute]:** 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				0.0	\$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	04-Mar-2005	15-Jun-2005	0.3	\$3	n/a	\$3

**Notes for DELAYED costs** Estimated cost to complete and submit the monthly DMRs. Date required is the due date for the annual report and the final date is the date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** \$200

**TOTAL** \$3

# Compliance History

Customer/Respondent/Owner-Operator: CN600667364 City of Big Wells Classification: AVERAGE Rating: 1.930  
Regulated Entity: RN101720357 CITY OF BIG WELLS Classification: AVERAGE Site Rating: 1.91  
ID Number(s): WASTEWATER PERMIT TPDES0104884  
WASTEWATER PERMIT WQ0013782001  
WASTEWATER PERMIT TPDES0104884  
WASTEWATER PERMIT WQ0013782001  
Location: approximately 2000 feet west of FM 1867 and 2200 feet south of US HWY 85, Big Wells, Dimmit County, Texas Rating Date: 9/1/04 Repeat Violator: NO  
TCEQ Region: REGION 16 - LAREDO  
Date Compliance History Prepared: June 15, 2005  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 15, 2000 to June 15, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Brent Hurta Phone: 512-239-6589

## 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 04/01/2002 (223537)
  - 2 03/16/2004 (258629)
  - 3 11/03/2004 (364337)
  - 4 11/03/2004 (364338)
  - 5 11/03/2004 (364339)
  - 6 11/03/2004 (364340)
  - 7 11/03/2004 (364341)
  - 8 10/03/2004 (364342)
  - 9 11/22/2004 (339848)
  - 10 06/13/2001 (39320)
  - 11 06/03/2005 (392698)
  - 12 05/05/2004 (271574)
  - 13 02/19/2003 (322821)
  - 14 05/05/2003 (322822)
  - 15 06/09/2003 (322823)
  - 16 06/09/2003 (322824)
  - 17 07/25/2003 (322825)
  - 18 08/26/2003 (322826)
  - 19 10/22/2003 (322827)
  - 20 03/07/2005 (388697)
  - 21 12/16/2003 (322828)

COMPLIANCE HISTORY 1

22 11/03/2004 (388698)  
 23 12/16/2003 (322829)  
 24 12/31/2004 (388699)  
 25 01/11/2005 (388700)  
 26 01/27/2005 (388701)  
 27 01/31/2003 (223559)  
 28 01/30/2002 (223558)  
 29 12/30/2002 (223557)  
 30 01/30/2002 (223556)  
 31 12/06/2002 (223555)  
 32 01/30/2002 (223554)  
 33 11/25/2002 (223553)  
 34 02/01/2001 (280806)  
 35 11/26/2001 (223552)  
 36 11/25/2002 (223551)  
 37 11/26/2001 (223550)  
 38 11/25/2002 (223549)  
 39 11/26/2001 (223548)  
 40 11/25/2002 (223547)  
 41 11/26/2001 (223546)  
 42 10/31/2003 (253663)  
 43 11/25/2002 (223545)  
 44 11/26/2001 (223544)  
 45 11/25/2002 (223543)  
 46 11/26/2001 (223542)  
 47 11/25/2002 (223541)  
 48 11/26/2001 (223540)  
 49 04/15/2003 (223539)  
 50 04/01/2002 (223538)

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

Date: 02/29/2004 (364337)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2004 (364338)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (364339)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2004 (364340)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2004 (364341)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2004 (364342)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (322821)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003 (322822)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (322823)  
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 07/31/2003 (322826) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 10/31/2003 (253663) Classification: Moderate  
Self Report? NO

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to comply with standard permit conditions with regard to self-reported effluent limitations.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to notify TCEQ of self-reported effluent violations exceeding permit limits by more than 40%.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Description: Failure to properly maintain aerobic lagoons.  
Date: 09/30/2003 (322827) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 01/31/2005 (388697) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 10/31/2003 (322828) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 03/31/2004 (388698) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 11/30/2003 (322829) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 10/31/2004 (388699) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 11/30/2004 (388700) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 12/31/2004 (388701) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 12/31/2002 (223559) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 11/30/2002 (223557) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 10/31/2002 (223555) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter  
Date: 09/30/2002 (223553) Classification: Moderate  
Self Report? YES

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 07/31/2002 (223549) Classification: Moderate  
 Self Report? YES  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 05/31/2001 (223544) Classification: Moderate  
 Self Report? YES  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 04/30/2001 (223542) Classification: Moderate  
 Self Report? YES  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/27/2004 (339848) Classification: Moderate  
 Self Report? NO  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT IA  
 Description: Failure to maintain compliance with the self-monitored effluent limitations.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT IA  
 Description: Failure to submit noncompliance notification as required by the permit.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 Rqmt Prov: PERMIT IA  
 Description: Failure to submit annual sludge reports.  
 Date: 03/31/2001 (223540) Classification: Moderate  
 Self Report? YES  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/28/2003 (223539) Classification: Moderate  
 Self Report? YES  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 08/31/2004 Classification: Moderate  
 Self Report? YES  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.  
N/A

G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.  
N/A

I. Participation in a voluntary pollution reduction program.  
N/A

J. Early compliance.  
N/A

Sites Outside of Texas  
N/A

# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b>	2-Jun-2008	<b>Screening</b>	23-Jun-2008	<b>EPA Due</b>	
		<b>PCW</b>	25-Jun-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Big Wells
<b>Reg. Ent. Ref. No.</b>	RN101720357
<b>Facility/Site Region</b>	16-Laredo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36212	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-1160-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>	Rebecca Clausewitz
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

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

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

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

**Compliance History** **Subtotals 2, 3, & 7** **\$1,120**

**Notes** **56.0% Enhancement**

The compliance history enhancement is due to two prior Notices of Violation (NOVs) containing violations that are the same as or similar to the violations in the current enforcement action, and for 23 prior NOVs containing dissimilar violations.

**Culpability** **Subtotal 4** **\$0**

**Notes** **0.0% Enhancement**

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$200**

**Economic Benefit** **Subtotal 6** **\$0**

**Total EB Amounts** **\$27** **0.0% Enhancement\***

**Approx. Cost of Compliance** **\$200** **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,920**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$2,920**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,920**

**DEFERRAL** **Adjustment** **-\$584**

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** **\$2,336**

Screening Date 23-Jun-2008

Docket No. 2008-1160-MWD-E

PCW

Respondent City of Big Wells

Policy Revision 2 (September 2002)

Case ID No. 36212

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101720357

Media [Statute] Water Quality

Enf. Coordinator Rebecca Clausewitz

## 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)	2	10%
	Other written NOVs	23	46%
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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 56%

## &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 compliance history enhancement is due to two prior Notices of Violation (NOVs) containing violations that are the same as or similar to the violations in the current enforcement action, and for 23 prior NOVs containing dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 56%

<b>Screening Date</b> 23-Jun-2008	<b>Docket No.</b> 2008-1160-MWD-E	<b>PCW</b>	
<b>Respondent</b> City of Big Wells	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36212	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101720357			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Rebecca Clausewitz			
<b>Violation Number</b> <input type="text" value="1"/>			
<b>Rule Cite(s)</b>	Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0013782001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(1) and (17)		
<b>Violation Description</b>	Failed to submit an annual sludge summary report to the Commission by September 1 of each year. Specifically, annual sludge summary reports for the years 2005 and 2006 have not been submitted to the Commission.		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	Potential	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major      Moderate      Minor	
	<input type="text"/>	x	<b>Percent</b> <input type="text" value="10%"/>
	<input type="text"/>	<input type="text"/>	
<b>Matrix Notes</b>	<input type="text" value="100% of the permit requirement was not met."/>		
<b>Adjustment</b>		<input type="text" value="\$9,000"/>	
			<input type="text" value="\$1,000"/>
<b>Violation Events</b>			
	<b>Number of Violation Events</b> <input type="text" value="2"/>	<input type="text" value="730"/>	<b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,000"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	x	
	single event	<input type="text"/>	
<input type="text" value="Two annual events are recommended."/>			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0%"/> Reduction	<input type="text" value="\$200"/>
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	x	
N/A	(mark with x)		
<b>Notes</b>	<input type="text" value="The annual sludge reports for 2005 and 2006 were submitted to the Commission on July 28, 2008."/>		
<b>Violation Subtotal</b>		<input type="text" value="\$1,800"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$27"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$2,920"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$2,920"/>	

## Economic Benefit Worksheet

**Respondent** City of Big Wells

**Case ID No.** 38212

**Reg. Ent. Reference No.** RN101720357

**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	1-Sep-2006	28-Jul-2008	1.91	\$1	\$25	\$27
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to prepare and submit the 2005 and 2006 annual sludge summary reports for the Facility, calculated from the date the 2005 sludge report was due, to 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

\$200

TOTAL

\$27

# Compliance History

Customer/Respondent/Owner-Operator:	CN600667364	City of Big Wells	Classification:	Rating: 1.86
Regulated Entity:	RN101720357	CITY OF BIG WELLS	Classification:	Site Rating: 1.86
ID Number(s):	WASTEWATER		PERMIT	WQ0013782001
	WASTEWATER		PERMIT	TPDES0104884
	WASTEWATER		PERMIT	WQ0013782001
	WASTEWATER		PERMIT	TPDES0104884
Location:	1300 EAST GRAND AVENUE, BIG WELLS, DIMMIT COUNTY, TX		Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	July 03, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 23, 2003 to June 23, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Rebecca Clausewitz</u>		Phone:	<u>(210) 403-4012</u>

## 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  | 07/25/2003 | (322825) |
| 2  | 08/26/2003 | (322826) |
| 3  | 10/22/2003 | (322827) |
| 4  | 10/31/2003 | (253663) |
| 5  | 12/16/2003 | (322828) |
| 6  | 12/16/2003 | (322829) |
| 7  | 03/16/2004 | (258629) |
| 8  | 05/05/2004 | (271574) |
| 9  | 10/03/2004 | (364342) |
| 10 | 11/03/2004 | (364337) |
| 11 | 11/03/2004 | (364338) |
| 12 | 11/03/2004 | (364339) |
| 13 | 11/03/2004 | (364340) |
| 14 | 11/03/2004 | (364341) |
| 15 | 11/03/2004 | (388698) |
| 16 | 11/22/2004 | (339848) |

**COMPLIANCE HISTORY 2**

17 12/31/2004 (388699)  
 18 01/11/2005 (388700)  
 19 01/27/2005 (388701)  
 20 03/07/2005 (388697)  
 21 04/06/2005 (426264)  
 22 05/16/2005 (426265)  
 23 05/16/2005 (426266)  
 24 06/03/2005 (392698)  
 25 06/09/2005 (426267)  
 26 07/31/2005 (446620)  
 27 08/05/2005 (446621)  
 28 09/19/2005 (446622)  
 29 10/14/2005 (479420)  
 30 11/09/2005 (479421)  
 31 11/16/2005 (437680)  
 32 12/08/2005 (479422)  
 33 03/08/2006 (479423)  
 34 06/28/2006 (505158)  
 35 06/28/2006 (505159)  
 36 06/28/2006 (505160)  
 37 06/28/2006 (505161)  
 38 06/28/2006 (505162)  
 39 12/22/2006 (628700)  
 40 12/22/2006 (628702)  
 41 12/22/2006 (628703)  
 42 12/22/2006 (628704)  
 43 12/22/2006 (628706)  
 44 12/22/2006 (628707)  
 45 02/09/2007 (535870)  
 46 02/12/2007 (628708)  
 47 03/07/2007 (628696)  
 48 03/07/2007 (628697)  
 49 05/09/2007 (628698)  
 50 07/19/2007 (628699)  
 51 07/19/2007 (628701)  
 52 08/29/2007 (574108)  
 53 11/08/2007 (628705)  
 54 05/30/2008 (681573)

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

- 1 Date: 07/31/2003 (322826)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
  
- 2 Date: 09/30/2003 (322827)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter
  
- 3 Date: 10/31/2003 (253663)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to comply with standard permit conditions with regard to self-reported effluent limitations.

- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to notify TCEQ of self-reported effluent violations exceeding permit limits by more than 40%.
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Description: Failure to properly maintain aerobic lagoons.
- 4 Date: 10/31/2003 (322828)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 5 Date: 11/30/2003 (322829)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 6 Date: 02/29/2004 (364337)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 7 Date: 03/31/2004 (388698)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 8 Date: 04/30/2004 (364338)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 9 Date: 05/31/2004 (364339)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 10 Date: 06/30/2004 (364340)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

- 11 Date: 07/31/2004 (364341)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 12 Date: 09/30/2004 (364342)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 13 Date: 10/27/2004 (339848)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT Effluent Limitations & Monitoring Req 1  
Description: Failure to maintain compliance with the self-monitored effluent limitations.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT Monitoring & Reporting Req 7c  
Description: Failure to submit noncompliance notification as required by the permit.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
Rqmt Prov: PERMIT Sludge Provisions Section IIF &/or IIIG  
Description: Failure to submit annual sludge reports.
- 14 Date: 10/31/2004 (388699)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 15 Date: 11/30/2004 (388700)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 16 Date: 12/31/2004 (388701)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter
- 17 Date: 01/31/2005 (388697)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

- 18 Date: 02/28/2005 (426264)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter.
- 19 Date: 03/31/2005 (426265)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter
- 20 Date: 08/01/2006 (488472)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Other Requirements 1  
 Description: Failure to employ a licensed operator to operate/maintain the wastewater treatment facility.
- 21 Date: 09/29/2006 (513354)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
 Rqmt Prov: PERMIT Monitoring and Reporting Requirements 7a  
 Description: Failure to notify the Executive Director of an unauthorized discharge.
- 22 Date: 02/09/2007 (535870)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Other Requirements 1  
 Description: Failure to employ a licensed operator to operate/maintain the wastewater treatment facility.
- Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)  
 Description: Failure to submit annual sludge reports for the years 2005 and 2006.
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
 Description: Failure to maintain operational records for daily flow calculation.
- 23 Date: 05/31/2007 (628699)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 24 Date: 06/30/2007 (628701)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

25

Date: 09/30/2007 (628705)

Self Report? YES

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF BIG WELLS,  
RN101720357

§  
§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1160-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The City owns and operates a domestic wastewater system located approximately 2000 feet west of Farm-to-Market Road 1867 and 2200 feet south of U.S. Highway 85 in Big Wells, Dimmit County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
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 June 6, 2005 and June 4, 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 eleven thousand nine hundred fifty dollars (\$11,950.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid one thousand five hundred eighty dollars (\$1,580.00) of the administrative penalty. The remaining amount of ten thousand three hundred seventy dollars (\$10,370.00) of the administrative penalty shall be payable in one monthly payment of three hundred six dollars (\$306.00) and 34 monthly payments of two hundred ninety-six dollars (\$296.00) each. The next monthly payment of three hundred six dollars (\$306.00) shall be paid within 30 days after the effective date of this Agreed Order. The subsequent 34 monthly payments of two hundred ninety-six dollars (\$296.00) shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all of the terms of this Agreed Order.
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 June 15, 2005, the City submitted Discharge Monitoring Reports ("DMRs") for February and August 2004.
10. The Executive Director also recognizes that on July 28, 2008, the City submitted its annual sludge reports for the years 2005 and 2006.
11. 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.
12. 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.
13. 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

The City is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 305.125(1); Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. 13782001 Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6; and TEX. WATER CODE § 26.121(a) by failing to meet the 5-day biochemical oxygen demand (“BOD<sub>5</sub>”), dissolved oxygen (“DO”), total suspended solids (“TSS”), and pH effluent limitations, as shown in the following table, as documented during a record review conducted on May 18, 2005.

**EFFLUENT PARAMETER  
 Permit Limit**

Month/Year	pH Maximum	TSS Daily Average	DO Minimum	BOD <sub>5</sub> Daily Average
	9 S.U.	90 mg/L	4 mg/L	30 mg/L
February 2004	c	247	c	62
March 2004	c	104	3.2	31
April 2004	9.7	c	c	c
May 2004	c	247	c	62
June 2004	9.5	c	3.0	44
July 2004	9.4	131	c	c
August 2004	9.3	c	c	c
September 2004	9.8	c	c	c
October 2004	9.2	123	c	c
November 2004	9.3	134	c	c
December 2004	9.7	115	c	c
January 2005	9.8	109	c	c

<u>Term</u>	<u>Abbreviation</u>
dissolved oxygen	DO
biochemical oxygen demand, 5-day	BOD <sub>5</sub>
milligrams per Liter	mg/L

<u>Term</u>	<u>Abbreviation</u>
Compliant	c
total suspended solids	TSS

2. 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 13782001, Monitoring and Reporting Requirements No. 1 by failing to submit timely DMRs for the monitoring periods ending February and August 2004, as documented during a record review conducted on May 18, 2005.
3. 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. 13782001, Sludge Provisions by failing to submit the annual sludge reports for the years 2005 and 2006 to the Commission by September 1 of each year, as documented during a record review conducted on May 21, 2008.

### III. DENIALS

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

### IV. ORDER

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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: City of Big Wells, Docket No. 2008-1160-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. Within 180 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with the effluent limits of TPDES Permit No. 13782001. The

certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Rose Luna-Pirtle, Water Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3638

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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order 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

*C. J. [Signature]*  
For the Executive Director

1/15/2009  
Date

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

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

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

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

*R. R. Matthews*  
Signature

12-11-08  
Date

R. R. MATTHEWS  
Name (Printed or typed)  
Authorized representative of  
City of Big Wells

MAYOR  
Title