

**Executive Summary – Enforcement Matter – Case No. 50391**

**City of San Benito**

**RN103935599**

**Docket No. 2015-0597-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

San Benito WWTP, 26300 Line 20 Road, San Benito, Cameron County

**Type of Operation:**

Wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 8, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$27,600

**Amount Deferred for Expedited Settlement:** \$5,520

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$22,080

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** February 11, 2015

**Date(s) of NOE(s):** March 30, 2015

**Executive Summary – Enforcement Matter – Case No. 50391  
City of San Benito  
RN103935599  
Docket No. 2015-0597-MWD-E**

***Violation Information***

Failed to obtain authorization for the discharge of wastewater into or adjacent to any water in the state. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0014454001, which expired on June 1, 2013, and continued to discharge wastewater from the Facility [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 305.42, 305.65, and 305.125(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By June 4, 2015, the Respondent obtained authorization to discharge wastewater under TPDES Permit No. WQ0015265001.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Had Darling, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2520; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Celeste Sanchez, Mayor, City of San Benito, 401 North Sam Houston Boulevard, San Benito, Texas 78586

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	6-Apr-2015	<b>Screening</b>	15-Apr-2015	<b>EPA Due</b>	
	<b>PCW</b>	15-Jul-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of San Benito		
<b>Reg. Ent. Ref. No.</b>	RN103935599		
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	50391	<b>No. of Violations</b>	1
<b>Docket No.</b>	2015-0597-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>	Jennifer Graves
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

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

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

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

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

Notes

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

Notes

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

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

Total EB Amounts   
 Estimated Cost of Compliance  *\*Capped at the Total EB \$ Amount*

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 15-Apr-2015

**Docket No.** 2015-0597-MWD-E

**PCW**

**Respondent** City of San Benito

Policy Revision 4 (April 2014)

**Case ID No.** 50391

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN103935599

**Media [Statute]** Water Quality

**Enf. Coordinator** Jennifer Graves

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
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 judgments 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%

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)** 2%

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

No

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

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

Satisfactory Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with dissimilar violations.

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

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 2%

**Screening Date** 15-Apr-2015  
**Respondent** City of San Benito  
**Case ID No.** 50391  
**Reg. Ent. Reference No.** RN103935599  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Jennifer Graves  
**Violation Number** 1

**Docket No.** 2015-0597-MWD-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code §§ 305.42, 305.65, and 305.125(2)

**Violation Description**

Failed to obtain authorization for the discharge of wastewater into or adjacent to any water in the state, as documented during an investigation conducted on February 11, 2015. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System Permit No. WQ0014454001, which expired on June 1, 2013, and continued to discharge wastewater from the Facility.

**Base Penalty** \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
	X		

**Percent** 15.0%

Matrix Notes

100% of the rule requirements were not met.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$30,000

Eight quarterly events are recommended from the permit expiration date (June 1, 2013) to the screening date (April 15, 2015).

**Good Faith Efforts to Comply**

**10.0%**

**Reduction** \$3,000

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

Notes: The Respondent achieved compliance by June 4, 2015.

**Violation Subtotal** \$27,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,004

**Violation Final Penalty Total** \$27,600

**This violation Final Assessed Penalty (adjusted for limits)** \$27,600

# Economic Benefit Worksheet

**Respondent** City of San Benito  
**Case ID No.** 50391  
**Req. Ent. Reference No.** RN103935599  
**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
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No commas or \$

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				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	\$10,000	1-Jun-2013	4-Jun-2015	2.01	\$1,004	n/a	\$1,004
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to prepare and submit a permit application to obtain authorization to discharge wastewater. Date required is the date the previous permit expired. Final date is the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$10,000	<b>TOTAL</b>	\$1,004
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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600755326, RN103935599, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN600755326, City of San Benito      **Classification:** SATISFACTORY      **Rating:** 0.30

**Regulated Entity:** RN103935599, SAN BENITO WWTP      **Classification:** SATISFACTORY      **Rating:** 0.50

**Complexity Points:** 13      **Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** 26300 LINE 20 RD, SAN BENITO, TX 78586-8843, CAMERON COUNTY

**TCEQ Region:** REGION 15 - HARLINGEN

**ID Number(s):**

**WASTEWATER** EPA ID TX0125971

**WASTEWATER** EPA ID TX0135470

**WASTEWATER** PERMIT WQ0015265001

**Compliance History Period:** September 01, 2009 to August 31, 2014      **Rating Year:** 2014      **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** June 02, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 02, 2010 to June 02, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jennifer Graves

**Phone:** (956) 430-6023

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	June 21, 2010	(848056)
Item 2	July 28, 2010	(862500)
Item 3	August 13, 2010	(869118)
Item 4	September 16, 2010	(875977)
Item 5	October 26, 2010	(883565)
Item 6	November 30, 2010	(898360)



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF SAN BENITO  
RN103935599

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2015-0597-MWD-E

I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of San Benito ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located at 26300 Line 20 Road, San Benito, Cameron County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 4, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Seven Thousand Six Hundred Dollars (\$27,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-Two Thousand Eighty Dollars (\$22,080) of the administrative penalty and Five Thousand Five Hundred

Twenty Dollars (\$5,520) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent, by June 4, 2015, obtained authorization to discharge wastewater under Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0015265001.
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 Respondent 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 Respondent is alleged to have failed to obtain authorization for the discharge of wastewater into or adjacent to any water in the state in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 305.42, 305.65, and 305.125(2), as documented during an investigation conducted on February 11, 2015. Specifically, the Respondent did not renew TPDES Permit No. WQ0014454001, which expired on June 1, 2013, and continued to discharge wastewater from the Facility.

## III. DENIALS

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

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of San Benito, Docket No. 2015-0597-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pam Monica  
For the Executive Director

2/18/16  
Date

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

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

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

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

Celeste Sanchez  
Signature

11-19-15  
Date

Celeste Sanchez  
Name (Printed or typed)  
Authorized Representative of  
City of San Benito

Mayor, City of San Benito  
Title

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