EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0307-PWS-E **TCEQ ID:** RN101383586 **CASE NO.:** 32832

RESPONDENT NAME: City of Hamilton

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Hamilton Public Water Supply, 1.3 miles east of State Highway 36 on the south side of State Highway 22, Hamilton County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ___ Yes __X__ 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 has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on July 16, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468
Respondent: The Honorable Roy Rumsey, Mayor, City of Hamilton, 200 East Main Street, Hamilton, Texas 76531
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** January 22, 2007 **Date of NOE Relating to this Case:** February 4, 2007 (NOE) **Background Facts:** This was a routine record review. Four violations were documented. **WATER** 1) Failed to provide a proper air gap connection on the filter-to-waste connection [30 TEX. ADMIN. CODE § 290.42(d)(2)(E)]. 2) Failed to locate the dry chemical feeders in a separate room that is provided with facilities for dust control [30 TEX. ADMIN. CODE § 290.42(f)(2)(F)]. 3) Failed to provide a minimum treatment plant capacity of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(2)(B) and TEX. HEALTH & SAFETY CODE 341.0315(c)]. 4) Failed to provide proper housing for the gas chlorine cylinders [30 TEX. ADMIN. CODE § 290.42(e)(4)(B)].	**Total Assessed:** $3,124 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $3,124 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** The Respondent has had three repeated enforcement actions over the prior five year period for the same or similar violation.	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment) 2) The Order will also require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Provide a proper air gap connection on the filter-to-waste connection; ii. Locate the dry chemical feeders in a separate room that is provided with facilities for dust control; and iii. Provide proper housing for the gas chlorine cylinders. b. Within 90 days after the effective date of this Agreed Order, provide a minimum treatment plant capacity of 0.6 gpm per connection. c. Within 105 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 Provision Nos. 2.a. through 2.b.

Attachment A
Docket Number: 2007-0307-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Hamilton**
Payable Penalty Amount:	**Three Thousand One Hundred Twenty-Four Dollars ($3,124)**
SEP Amount:	**Three Thousand One Hundred Twenty-Four Dollars ($3,124)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Hamilton County**

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision January 9, 2007*

DATES

Assigned	19-Feb-2007				
PCW	22-Feb-2007	**Screening**	23-Feb-2007	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Hamilton		
Reg. Ent. Ref. No.	RN101383586		
Facility/Site Region	9-Waco	**Major/Minor Source**	Major

CASE INFORMATION

Enf./Case ID No.	32832	**No. of Violations**	4
Docket No.	2007-0307-PWS-E	**Order Type**	Findings
Media Program(s)	Public Water Supply	**Enf. Coordinator**	Christopher Miller
Multi-Media		**EC's Team**	EnforcementTeam 2
Admin. Penalty $ Limit Minimum	$50	**Maximum**	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$2,200**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **42%** Enhancement — ***Subtotals 2, 3, & 7*** **$924**

Notes: Enhancement due to one prior Agreed Order (2002-0080-PWS-E), four prior Notices of Violation ("NOV") with violations the same as or similar to the violations in the current enforcement case and one NOV with dissimilar violations.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

0% Enhancement* — ***Subtotal 6*** **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$688
Approx. Cost of Compliance	$11,300

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$3,124**

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

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

Notes:

Final Penalty Amount **$3,124**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$3,124**

DEFERRAL — **0%** Reduction — ***Adjustment*** **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$3,124**

Screening Date 23-Feb-2007 **Docket No.** 2007-0307-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 32832 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

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 (*number of NOVs meeting criteria*)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	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 judgements 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) 42%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement due to one prior Agreed Order (2002-0080-PWS-E), four prior Notices of Violation ("NOV") with violations the same as or similar to the violations in the current enforcement case and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 23-Feb-2007 **Docket No.** 2007-0307-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 32832 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.42(d)(2)(E)

Violation Description Failed to provide a proper air gap connection on the filter-to-waste connection.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to provide an air gap connection on the filter-to-waste connection could expose customers of the water supply to a significant amount of pollutants which would exceed levels that are protective of human health.

Adjustment $500

$500

Violation Events

Number of Violation Events 2

32 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,000

Two monthly events are recommended from the January 22, 2007 record review date to the February 23, 2007 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $17

Statutory Limit Test

Violation Final Penalty Total $1,420

This violation Final Assessed Penalty (adjusted for limits) $1,420

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 32832
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$300	22-Jan-2007	22-Nov-2007	0.8	$1	$17	$17
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)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to provide a proper air gap connection on the filter-to-waste connection. Date required is the date of the investigation. Final date is the estimated 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: There are no avoided costs associated with this violation.

Approx. Cost of Compliance $300

TOTAL $17

Screening Date 23-Feb-2007 **Docket No.** 2007-0307-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 32832 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.42(f)(2)(F)

Violation Description Failed to locate the dry chemical feeders in a separate room that is provided with facilities for dust control. Specifically, during the investigation it was noted that the lime chemical feeder was located in the same room as the Chem floc and flouride chemical feeders without any facilities for dust control.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Without proper housing and containment for chemicals and equipment, employees and customers of the water supply could be exposed to insignificant amounts of water treatment chemicals which would not exceed levels that are protective of human health.

Adjustment $900

$100

Violation Events

Number of Violation Events 1 | 32 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $292

Statutory Limit Test

Violation Final Penalty Total $142

This violation Final Assessed Penalty (adjusted for limits) $142

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 32832
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings	$5,000	22-Jan-2007	22-Nov-2007	0.8	$14	$278	$292
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)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to locate the dry chemical feeders in a separate room that is provided with facilities for dust control. Date required is the date of the investigation. Final date is the estimated 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: There are no avoided costs associated with this violation.

Approx. Cost of Compliance $5,000

TOTAL $292

Screening Date 23-Feb-2007 **Docket No.** 2007-0307-PWS-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

Respondent City of Hamilton

Case ID No. 32832

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(2)(B) and Tex. Health & Safety Code 341.0315(c)

Violation Description Failed to provide a minimum treatment plant capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, a system with 1,555 connections and a 600 gpm maximum purchase rate should have a capacity of 1,533 gpm. At the time of the investigation the normal rated design flow for the plant was 1,530 gpm based on the sedimentation basin capacity, a 1.41% deficiency.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Without sufficient capacity, customers of the water supply could experience water shortages and the system's ability to provide a safe and adequate supply of water to the customers could be impaired.

Adjustment $900

$100

Violation Events

Number of Violation Events 1

32 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $320

Statutory Limit Test

Violation Final Penalty Total $142

This violation Final Assessed Penalty (adjusted for limits) $142

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 32832
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$5,000	22-Jan-2007	22-Dec-2007	0.9	$15	$305	$320
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 to increase treatment capacity to 1,533 gpm. Date required is the date of the investigation. Final date is the estimated 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	There are no avoided costs associated with this violation.						

Approx. Cost of Compliance: $5,000

TOTAL: $320

Screening Date 23-Feb-2007 **Docket No.** 2007-0307-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 32832 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.42(e)(4)(B)

Violation Description Failed to provide proper housing for the gas chlorine cylinders. Specifically, during the investigation a one ton gas chlorine cylinder was stored outside the plant unprotected from adverse weather conditions and vandalism.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Without proper housing and containment for chemicals and equipment, employees and customers of the water supply could be exposed to significant amounts of water treatment chemicals which exceed levels that are protective of human health.

Adjustment $500

$500

Violation Events

Number of Violation Events 2 | 32 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,000

Two monthly events are recommended based on the January 22, 2007 record review date to the February 23, 2007 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $58

Statutory Limit Test

Violation Final Penalty Total $1,420

This violation Final Assessed Penalty (adjusted for limits) $1,420

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 32832
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings	$1,000	22-Jan-2007	22-Nov-2007	0.8	$3	$56	$58
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)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to properly house the chlorine gas cylinders. Date required is the date of the investigation. Final date is the estimated 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: There are no avoided costs associated with this violation.

Approx. Cost of Compliance $1,000

TOTAL $58

Compliance History

Customer/Respondent/Owner-Operator:	CN600626279	City of Hamilton	Classification: AVERAGE	Rating: 2.38
Regulated Entity:	RN101383586	CITY OF HAMILTON	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING		REGISTRATION LICENSE	0970001 0970001
Location:	1.3 miles east of State Highway 36 on the south side of State Highway 22, Hamilton County			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	February 21, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 21, 2002 to February 21, 2007			

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

Name: Chris Miller Phone: 512-239-6580

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.

Effective Date: 12/12/2002 ADMINORDER 2002-0080-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain a residual disinfectant concentration of at least 0.5 mg/L free chloramine in the far reaches of the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
4G THC Chapter 321, SubChapter D 341.0315(c)

Description: Failure to provide a minimum treatment plant capacity of 0.6 gpm per connection

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to install backflow prevention devices where an actual or potential contamination hazard exists.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failure to provide a flow measuring device to measure the treated water used to backwash the filters.

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 02/06/2003 (23172)

2 03/03/2003 (280884)
3 04/03/2003 (27028)
4 04/23/2004 (268889)
5 05/18/2005 (379498)
6 07/26/2005 (396807)
7 07/24/2006 (460835)
8 09/26/2006 (511251)
9 11/21/2006 (531349)
10 02/15/2007 (537465)

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

Date: 02/10/2003 (23172)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 291, SubChapter F 291.93[G]
Description: The results of this investigation indicate that this water system's minimum required treatment capacity has exceeded 85% of its existing capacity.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to provide a proper overflow flap valve on the East Street elevated storage tank.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)
Description: Failure to properly label chemical tanks and feed lines.

Date: 04/04/2003 (27028)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 291, SubChapter F 291.93[G]
Description: The results of this investigation indicate that this water system's minimum required treatment capacity has exceeded 85% of its existing capacity.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide a proper overflow flap valve on the East Street elevated storage tank.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)
Description: Failure to properly label chemical tanks and feed lines.

Date: 04/21/2004 (268889)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to calibrate flow measuring devices every 12 months. During this investigation it was noted that the lake raw water meter, plant raw water meter, backwash meter, and recycle meter have not been calibrated in the last 12 months. These meters must be calibrated as required.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
Description: Failure to properly install service pump vents located on the clearwell.

Date: 05/23/2005 (379498)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)
Description: Failure to provide a proper air gap connection on the filter-to-waste connection.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(i)
Description: Failure to properly calibrate the pH meter.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence in order to protect the elevated storage tank.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)(F)
Description: Failure to locate dry chemical feeders in a separate room that is provided with facilities for dust control.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(I)
Description: Failure to provide containment facilities for all liquid chemical storage tanks.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)[G]
Description: Failure to identify all chemical feed lines by the use of labels or various colors of paint.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]
Description: Failure to inspect the elevated tanks, clearwell, and standpipe at least annually.

Date: 07/17/2006 (460835)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)
Description: Failure to provide a proper air gap connection on the filter-to-waste connection.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)(F)
Description: Failure to locate dry chemical feeders in a separate room that is provided with facilities for dust control.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
Description: Failure to provide adequate treatment plant capacity.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)
Description: Failure to provide proper housing for gas chlorine cylinders.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20(c)
Description: Failure to provide an up-to-date drought contingency plan.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failure to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF HAMILTON	§	
RN101383586	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0307-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Hamilton ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a public water supply located 1.3 miles east of State Highway 36 on the south side of State Highway 22, Hamilton County, Texas (the "Facility") that has

approximately 1,555 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on January 22, 2007, TCEQ staff documented that the City did not provide a proper air gap connection on the filter-to-waste connection.

3. During a record review conducted on January 22, 2007, TCEQ staff documented that the City did not locate the lime chemical feeder in a separate room that is provided with facilities for dust control.

4. During a record review conducted on January 22, 2007, TCEQ staff documented that the City was providing an insufficient plant treatment capacity of 1,530 gallons per minute ("gpm"), deficient by 1.41% for 1,555 connections.

5. During a record review conducted on January 22, 2007, TCEQ staff documented that the City stored a one ton chlorine cylinder outside the plant unprotected from adverse weather conditions and vandalism.

6. The City received notice of the violations on February 9, 2007.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 2, the City failed to provide a proper air gap connection on the filter-to-waste connection, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(2)(E).

3. As evidenced by Findings of Fact No. 3, the City failed to locate the dry chemical feeders in a separate room that is provided with facilities for dust control, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(2)(F).

4. As evidenced by Findings of Fact No. 4, the City failed to provide a minimum treatment plant capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(B) and TEX. HEALTH & SAFETY CODE 341.0315(c).

5. As evidenced by Findings of Fact No. 5, the City failed to provide proper housing for the gas chlorine cylinders, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(B).

6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

7. An administrative penalty in the amount of Three Thousand One Hundred Twenty-Four Dollars ($3,124) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Three Thousand One Hundred Twenty-Four Dollars ($3,124) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Three Thousand One Hundred Twenty-Four Dollars ($3,124) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hamilton, Docket No. 2007-0307-PWS-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. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 7 above, Three Thousand One Hundred Twenty-Four Dollars ($3,124) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The City shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

      i. Provide a proper air gap connection on the filter-to-waste connection, in accordance with 30 TEX. ADMIN. CODE § 290.42;

      ii. Locate the dry chemical feeders in a separate room that is provided with facilities for dust control, in accordance with 30 TEX. ADMIN. CODE § 290.42; and

iii. Provide proper housing for the gas chlorine cylinders, in accordance with 30 TEX. ADMIN. CODE § 290.42.

b. Within 90 days after the effective date of this Agreed Order, provide a minimum treatment plant capacity of 0.6 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and

c. Within 105 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. 3.a through 3.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:

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

4 The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.

8. 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.

9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 9/7/07
For the Executive Director Date

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

I understand that by entering into this Agreed Order, City of Hamilton waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Roy Rumsey 5-14-07
Signature Date

Roy Rumsey Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Hamilton

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

Attachment A
Docket Number: 2007-0307-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Hamilton**
Payable Penalty Amount:	**Three Thousand One Hundred Twenty-Four Dollars ($3,124)**
SEP Amount:	**Three Thousand One Hundred Twenty-Four Dollars ($3,124)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Hamilton County**

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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