

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2007-0065-PWS-E **TCEQ ID:** RN101178846 **CASE NO.:** 32189  
**RESPONDENT NAME:** Clayton Water Supply Corporation

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Clayton Water Supply Corporation Plant 3, approximately 0.3 mile west of Farm -to-Market Road 315 and Farm-to-Market Road 1970, Panola County</p> <p><b>TYPE OF OPERATION:</b> Water supply system</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 1, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Tel Croston, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5717; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Mike Pennington, President, Clayton Water Supply Corporation, P.O. Box 3, Clayton, Texas 75637  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 25, 2006</p> <p><b>Date of NOE Relating to this Case:</b> September 27, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Exceeded the Maximum Contaminant Level of 0.80 milligrams per liter ("mg/L") based on the running annual average for total trihalomethanes ("TTHM") [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$770</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$770</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input 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>Findings Orders Justification:</b> The Respondent has five prior NOV's for the same violation over the previous five year period.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average for TTHM; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include a copy of the water analysis to demonstrate compliance with Ordering Provision a.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	9-Jan-2007	<b>Screening</b>	11-Jan-2007	<b>EPA Due</b>	27-Jun-2007
	<b>PCW</b>	11-Jan-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Clayton Water Supply Corporation		
<b>Reg. Ent. Ref. No.</b>	RN101178846		
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	32189	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-0065-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Tel Croston
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## 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** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

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

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

**Notes**

**Total EB Amounts**  **Subtotal 6**   
**Approx. 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. (Enter number only; e.g. -30 for -30%.)

**Notes**

**Final Penalty Amount**

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

**DEFERRAL** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 11-Jan-2007

Docket No. 2007-0065-PWS-E

PCW

Respondent Clayton Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 32189

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101178846

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

**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)	5	25%
	Other written NOVs	2	4%
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 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) 29%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued five NOVs for the same or similar violations and two unrelated NOVs in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 29%

Screening Date 11-Jan-2007

Docket No. 2007-0065-PWS-E

PCW

Respondent Clayton Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 32189

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101178846

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Exceeded the Maximum Contaminant Level of 0.80 milligrams per liter ("mg/L") based on the running annual average for total trihalomethanes ("TTHM"). Specifically the running annual average for TTHM was 0.110 mg/L for the first quarter, 0.101 mg/L for the third quarter and 0.101 mg/L for the fourth quarter of 2005 and 0.099 mg/L for the first quarter and 0.101 mg/L for the third quarter of 2006, in violation of 30 Tex. Admin. Code § 290.113(f)(4), as documented during a file review conducted on September 25, 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 407 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$500

Two annual events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$751

Violation Final Penalty Total \$770

This violation Final Assessed Penalty (adjusted for limits) \$770

## Economic Benefit Worksheet

**Respondent** Clayton Water Supply Corporation  
**Case ID No.** 32189  
**Reg. Ent. Reference No.** RN101178846  
**Media** Public Water Supply  
**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
<small>No commas or \$</small>							

### 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)	\$5,000	30-Oct-2005	30-Oct-2008	3.0	\$751	n/a	\$751

Notes for DELAYED costs

Estimated cost to implement an alternative method of disinfection. Beginning date is the date of the first quarter of non-compliance. 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

Approx. Cost of Compliance

\$5,000

**TOTAL:**

\$751

# Compliance History

Customer/Respondent/Owner-Operator: CN600626642 Clayton WSC Classification: Rating:  
 Regulated Entity: RN101178846 CLAYTON WSC PLANT 3 Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1830030  
 Location: LOCATED .3 MI W OF FM 315 AND FM 1970 IN PANOLA CO  
 TCEQ Region: REGION 05 - TYLER  
 Date Compliance History Prepared: January 10, 2007

Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: January 10, 2002 to January 10, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Tel Croston Phone: 239-5717

## 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 10/20/2005 (515332)
- 2 01/12/2006 (515349)
- 3 04/19/2006 (515624)
- 4 01/04/2007 (535646)
- 5 11/02/2004 (336949)
- 6 04/26/2006 (459281)
- 7 07/20/2006 (515668)
- 8 03/29/2005 (514576)
- 9 07/29/2005 (401343)

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

- 1 Date: 10/20/2005 (515332) Classification: Moderate  
 Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for trihalomethanes in the third quarter of 2005.
- 2 Date: 07/20/2006 (515668) Classification: Moderate  
 Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for trihalomethanes in the second quarter of 2006.
- 3 Date: 01/12/2006 (515349) Classification: Moderate  
 Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for trihalomethanes in the fourth quarter of 2005.
- 4 Date: 11/05/2004 (336949) Classification: Moderate  
 Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(5)

- 5 Description: Failure to have adequate flush valves on all dead-end mains  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(k)  
 Description: Failure to compile a Plant Operations Manual  
 Date: 03/29/2005 (514576)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
- 6 Description: Violated the maximum contaminant level for trihalomethanes in the first quarter of 2005.  
 Date: 04/24/2006 (459281)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)  
 Description: Failure to meet the required well production capacity of 0.6 gallons per connection.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)  
 Description: Failed to meet the required service pump capacity of 2.0 gallons per minute per connection.  
 Self Report? NO Classification: Major  
 Citation: 2A TWC Chapter 7, SubChapter A 7.101  
 Rqmt Prov: ORDER IA  
 Description: Failure to comply with the Ordering Provisions of Commission Order 2000-0632-PWS-E.  
 Date: 04/19/2006 (515624)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: Violated the maximum contaminant level for trihalomethanes in the first quarter of 2006.

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  
CLAYTON WATER SUPPLY  
CORPORATION  
RN101178846**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0065-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 Clayton Water Supply Corporation ("Clayton WSC") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Clayton WSC presented this agreement to the Commission.

Clayton WSC 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, Clayton WSC 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 Clayton WSC.

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

### **I. FINDINGS OF FACT**

1. Clayton WSC owns and operates a water supply system at approximately 0.3 mile west of Farm-to-Market Road 315 and Farm-to-Market Road 1970 in Panola County, Texas (the "Facility") that has approximately 102 service connections and serves at least 25 people per day for at least 60 days per year.



2. During a record review on September 25, 2006, TCEQ staff documented that Clayton WSC exceeded the Maximum Contaminant Level of 0.80 milligrams per liter ("mg/L") based on the running annual average for total trihalomethanes ("TTHM"). Specifically the running annual average for TTHM was 0.110 mg/L for the first quarter, 0.101 mg/L for the third quarter and 0.101 mg/L for the fourth quarter of 2005 and 0.099 mg/L for the first quarter and 0.101 mg/L for the third quarter of 2006.
3. Clayton WSC received notice of the violations on October 2, 2006.

## **II. CONCLUSIONS OF LAW**

1. Clayton WSC 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, Clayton WSC exceeded the Maximum Contaminant Level of 0.80 mg/L based on the running annual average for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a file review conducted on September 25, 2006.
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Clayton WSC 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.
4. An administrative penalty in the amount of Seven Hundred Seventy Dollars (\$770) 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). Clayton WSC has paid the Seven Hundred Seventy Dollar (\$770) administrative penalty.

## **III. ORDERING PROVISIONS**

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

1. Clayton WSC is assessed an administrative penalty in the amount of Seven Hundred Seventy Dollars (\$770) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Clayton WSC'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: Clayton Water Supply Corporation, Docket No. 2007-0065-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. Clayton WSC shall undertake the following technical requirements:
  - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average for TTHM as required by 30 TEX. ADMIN. CODE § 290.113; and
  - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below and include a copy of the water analysis to demonstrate compliance with Ordering Provision 2.a.

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:

Public Water Supply Section, Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon Clayton WSC. Clayton WSC 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. 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 Clayton WSC shall be made in writing to the Executive Director. Extensions are not effective until Clayton WSC receives approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. 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 Clayton WSC if the Executive Director determines that Clayton WSC has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against Clayton WSC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This 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.
9. 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

*John Sredler*  
For the Executive Director

8/23/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Clayton Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Clayton Water Supply Corporation, 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, Clayton Water Supply Corporation 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.

*ME Pennington*  
Signature

8-20-07  
Date

MIKE PENNINGTON  
Name (Printed or typed)  
Authorized Representative of  
Clayton Water Supply Corporation

president  
Title

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

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