

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2003-0385-PWS-E **TCEQ ID:** Public Water Supply Identification No. 0670005, RN101205573**CASE NO.:** 5917**RESPONDENT NAME:** City of Rising Star

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input 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>SITE WHERE VIOLATION(S) OCCURRED: City of Rising Star, located at the Junction of Highway 36 and Highway 183, Rising Star, Eastland County</p> <p>TYPE OF OPERATION: Public drinking water system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 23, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: The Honorable Earl Harris, Mayor, City of Rising Star, P.O. Box 35, Rising Star, Texas 76741 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 27, 2002</p> <p>Date of NOE Relating to this Case: April 23, 2003 (NOE)</p> <p>Background Facts: This was a routine scheduled investigation for compliance with the drinking water program. Three significant program violations were observed.</p> <p>WATER</p> <p>1) Failure to have additional protection at the meter in the form of an air gap or backflow prevention assembly at the following locations: funeral home, grade school, two beauty salons, medical clinic, and nursing home [30 TEX. ADMIN. CODE § 2980.44(h)(1)(A)].</p> <p>2) Failure to keep a supply of calcium hypochlorite disinfectant on hand for making repairs to the drinking water system [30 TEX. ADMIN. CODE § 290.46(h)].</p> <p>3) Failure to repair cracked sealing blocks around well head nos. 3, 9, and 11 [30 TEX. ADMIN. CODE § 290.41(c)(3)(J)].</p>	<p>Total Assessed: \$2,925</p> <p>Total Deferred: \$585 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,340</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) Completed installation of backflow prevention devices at the funeral home, grade school, two beauty salons, medical clinic, and nursing home by March 8, 2002;</p> <p>b) Began maintaining a supply of calcium hypochlorite at the Facility by March 11, 2002; and</p> <p>c) Completed repair of the cracked sealing blocks around well head nos. 3, 9, and 11 by May 30, 2002.</p> <p>Ordering Provision</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See Attachment A).</p>

Attachment A
Docket Number: 2003-0385-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Rising Star
Payable Penalty Amount:	Two Thousand Three Hundred Forty Dollars (\$2,340)
SEP Amount:	Two Thousand Three Hundred Forty Dollars (\$2,340)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Plugging Abandoned Water Wells
Location of SEP:	Eastland 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 plug abandoned water wells where there is no responsible party that can be identified to plug the well.

All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 reducing the threat to state ground water supplies. Abandoned wells are a direct channel for contaminants to reach groundwater. This project will also reduce the safety threat abandoned wells pose to humans, livestock, and wildlife.

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
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 (09/02)		PCW Revision 3/13/2003	
DATES			
PCW	14-May-2004	Screening	8-Oct-2002
		Priority Due	5-Feb-2003
		EPA Due	
RESPONDENT INFORMATION			
Respondent	City of Rising Star		
Respondent/Site ID No(s).	TCEQ PWS ID No. 0670005; Regulated Entity ID No. RN101205573		
Facility/Site Region	3 - Abilene	Major/Minor Source	Minor
CASE INFORMATION			
Enf./Case ID No(s).	5917	No. Violations	3
Docket No.	2003-0385-PWS-E	Order Type	1660 with deferral
Case Priority	3	EC's Team	Enforcement Team 8
Enf. Coordinator	Michael Meyer		
Media Program(s)	Public Water Supply		
Admin. Penalty \$ Limit	Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,250
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	0% Enhancement	Subtotals 2, 3 & 7 \$0
Notes	There are no NOV's, orders, or any other enforcement actions within the last five years.	
Culpability	0% Enhancement	Subtotal 4 \$0
Notes	The respondent does not meet the culpability criteria.	
Good Faith Effort to Comply	10% Reduction	Subtotal 5 -\$325
Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer
Ordinary		X
None of the above		(mark with small x)
Notes	Compliance was achieved on May 30, 2002.	
Economic Benefit	0% Enhancement*	Subtotal 6 \$0
\$25	Total EB Amounts	*Capped at the Total EB \$ Amount
\$3,950	Approx. Cost of Compliance	=
SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,925
OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
Notes	Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)	
	Final Penalty Amount	\$2,925
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,925
DEFERRAL	20% Reduction	Adjustment \$585
Notes	Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)	
		=
PAYABLE PENALTY		\$2,340

Screening Date 8-Oct-2002
 Respondent City of Rising Star
 Case ID No. 5917

Docket Number 2003-0385-PWS-E **PCW**
 Policy Revision 2 (09/02)
 PCW Revision 3/13/2003

Respondent/Site ID No. TCEQ PWS ID No. 0670005; Regulated Entity ID No. RN101205573

Media [Statute] Public Water Supply

Enf. Coordinator Michael Meyer

Site Address

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)	0	0%
	Other written NOVs	0	0%
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)

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

Select Yes/No

Adjustment Percentage (Subtotal 3)

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

Select High, Average or Poor

Adjustment Percentage (Subtotal 7)

Compliance History Summary

Compliance History Notes

Total Adjustment Percentage (Subtotals 2, 3 & 7)

Screening Date 08-Oct-02

Docket Number 2003-0385-PWS-E

PCW

Respondent City of Rising Star

Policy Revision 2 (09/02)

Case ID No. 5917

PCW Revision 3/13/2003

Respondent/Site ID No. TCEQ PWS ID No. 0670005; Regulated Entity ID No. RN101205573

Media [Statute] Public Water Supply

Enf. Coordinator Michael Meyer

Violation Number

1

Primary Rule Cite

30 TAC § 290.44(h)(1)(A)

Secondary Cite(s)

Violation Description

The respondent failed to have additional protection at the meter in the form of an air gap or backflow prevention assembly at the following locations: funeral home, grade school, two beauty salons, medical clinic and nursing home as documented during an inspection conducted by the TCEQ Abilene Regional Office on February 27, 2002.

Base Penalty \$1,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
OR Actual			
Potential	x		

Percent 25%

» Programmatic Matrix

	Falsification	Major	Moderate	Minor
OR				

Percent

Matrix Notes

Failure to have a backflow prevention assembly could result in human health being exposed to pollutants which exceed protective levels

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 6

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,500

Events Notes

Six single events, one for each location, as documented during the inspection conducted on February 27, 2002.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$5

Violation Final Penalty total \$1,350

This Violation Final Assessed Penalty (adjusted for limits) \$1,350

Economic Benefit Worksheet

Respondent City of Rising Star
ID Number(s) 5917
Media [Statute] Public Water Supply
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$3,000	27-Feb-2002	8-Mar-2002	0.0	\$0	\$5	\$5
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for installing a backflow prevention assembly of \$500 per connection times six connections. The Date Required is the date of the investigation and the Final Date is the date that compliance was achieved.

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/equip				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

TOTAL

Screening Date	08-Oct-02	Docket Number	2003-0385-PWS-E	PCW
Respondent	City of Rising Star			Policy Revision 2 (09/02)
Case ID No.	5917			PCW Revision 3/13/2003
Respondent/Site ID No.	TCEQ PWS ID No. 0670005; Regulated Entity ID No. RN101205573			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Michael Meyer			
Violation Number	2			
Primary Rule Cite	30 TAC § 290.46(h)			
Secondary Cite(s)				
Violation Description	Failure to keep a supply of calcium hypochlorite on hand to use as disinfectant for making repairs to the drinking water system, as documented during an inspection conducted by the TCEQ Abilene Regional Office on February 27, 2002.			
	Base Penalty	\$1,000		
» Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual			
	Potential	x		
	Percent	25%		
» Programmatic Matrix				
OR	Falsification	Major	Moderate	Minor
	Percent			
Matrix Notes	Failure to keep a supply of calcium hypochlorite on hand for use as a disinfectant while making repairs to the drinking water system may result in the exposure of significant amounts of contaminants which may exceed levels that are protective of human health and the environment.			
	Adjustment	-\$750		
	Base Penalty Subtotal	\$250		
Violation Events				
	Number of Violation Events	1		
<i>mark only one; use small x</i>	daily			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
	Violation Base Penalty	\$250		
Events Notes	The event period is from February 27, 2002 through the date of compliance (March 11, 2002). Three quarterly events are recommended to make the penalty commensurate with the situation.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount (\$)	\$4		
	Violation Final Penalty total	\$225		
	This Violation Final Assessed Penalty (adjusted for limits)	\$225		

Economic Benefit Worksheet

Respondent City of Rising Star
ID Number(s) 5917
Media [Statute] Public Water Supply
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$50	27-Feb-2002	11-Mar-2003	1.0	\$0	\$3	\$4
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

This is an estimate of the approximate cost for keeping a supply of calcium hypochlorite on hand for making repairs to the drinking water system. The Date Required is the date of the investigation and the Final Date is the date that compliance was achieved.

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/equip				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

TOTAL

Screening Date	08-Oct-02	Docket Number	2003-0385-PWS-E	PCW
Respondent	City of Rising Star			Policy Revision 2 (09/02)
Case ID No.	5917			PCW Revision 3/13/2003
Respondent/Site ID No.	TCEQ PWS ID No. 0670005; Regulated Entity ID No. RN101205573			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Michael Meyer			
Violation Number	3			
Primary Rule Cite	30 TAC § 290.41(c)(3)(J)			
Secondary Cite(s)				
Violation Description	Failure to repair cracked sealing block around well heads 3, 9, and 11, as documented during an investigation conducted by the TCEQ Abilene Regional Office on February 27, 2002.			
		Base Penalty		\$1,000
» Environmental, Property and Human Health Matrix				
	Harm			
	Release	Major	Moderate	Minor
OR	Actual			
	Potential	x		
			Percent	25%
» Programmatic Matrix				
	Falsification	Major	Moderate	Minor
OR				
			Percent	
Matrix Notes	The sealing block was cracked and had become separated from the wellhead. Failure to provide the wellhead with a properly constructed concrete sealing block that meets required specifications may result in the exposure of contaminants which may exceed levels that are protective of human health and the environment.			
		Adjustment		-\$750
		Base Penalty Subtotal		\$250
Violation Events				
	Number of Violation Events	6		
<small>mark only one; use small x</small>	daily			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
		Violation Base Penalty		\$1,500
Events Notes	The event period is from February 27, 2002 to the date of compliance (May 30, 2002). Two quarterly events times number of wellheads in violation (three) for a total of six events are recommended to make the penalty commensurate with the situation.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount (\$)	\$16	Violation Final Penalty total	\$1,350
	This Violation Final Assessed Penalty (adjusted for limits)			\$1,350

Economic Benefit Worksheet

Respondent City of Rising Star
ID Number(s) 5917
Media [Statute] Public Water Supply
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$900	27-Feb-2002	30-May-2002	0.3	\$1	\$15	\$16
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

Approximate cost for installing a sealing block around each of three wellheads. This is based on an approximate cost of three hundred dollars per wellhead. The Date Required is the date of the investigation and the Final Date is the date that compliance was achieved.

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/equip				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

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Approx Cost of Compliance

TOTAL

COMPLIANCE HISTORY

Customer/Respondent/Owner-Operator:	RN101205573 City of Rising Star	Site Classification:
Regulated Entity/ID Nos.:	PWS Facility ID No. 0670005	Site Rating:
Location [physical address or description of location (street, highway, FM, etc.) including city or nearest city, and county]:	Junction of Highway 36 and Highway 183, Rising Star, Eastland County	Repeat Violator: (y/n) n
TCEQ Region No.	3	
Date Compliance History Prepared:	June 2, 2003	

Agency Decision Requiring Compliance History (mark one):

<input type="checkbox"/>	the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit
<input checked="" type="checkbox"/>	enforcement
<input type="checkbox"/>	the use of announced investigations (Field Ops)
<input type="checkbox"/>	participation in innovative programs

Compliance Period: June 2, 1998 through June 2, 2003

TCEQ staff person to contact for additional information regarding this compliance history:

Name: Malcolm A. Ferris Phone: (210) 403-4061

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Unk
2. Has there been a (known) change in ownership of the site during the compliance period?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Unk
3. If Yes, who is the current owner?			
4. If Yes, who was/were the prior owner(s)?			
5. When did the change(s) in ownership occur?			

Components (multimedia) for the Site:

- A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government
 - 1. Effective Date: N/A Type of Action:
 - Violation Citation 1: Classification:
 - Violation Description:

- B. Any criminal convictions of the state of Texas and the federal government.
 - Conviction Date: N/A
 - Count 1:
 - Count 2:

- C. Chronic excessive emissions events: None

- D. The dates of investigations.
 - 1. July 31, 2002

E. Written notices of violation (NOV)

1. Date: N/A

Self-reported?

Yes

No

Violation Citation 1:

Classification:

Violation Description:

F. Environmental audits.

1. Notice of Intent Date: N/A

Disclosure Date: N/A

Violation Citation 1:

Classification:

Violation Description:

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

State: N/A

Site Name:

Location:

Type of Action:

Effective Date:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
CITY OF RISING STAR	§	TEXAS COMMISSION ON
PUBLIC WATER	§	
SUPPLY FACILITY ID	§	
NO. 0670005; REGULATED ENTITY	§	
ID NO. RN101205573	§	ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2003-0385-PWS-E**

I. JURISDICTION AND STIPULATIONS

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

1. Rising Star owns and operates a public drinking water system located at the Junction of Highway 36 and Highway 183 in Rising Star, Eastland County, Texas (the "Facility").
2. The Commission and Rising Star agree that the Commission has jurisdiction to enter this Agreed Order, and that Rising Star is subject to the Commission's jurisdiction.
3. Rising Star received notice of the violations alleged in Section II ("Allegations") on or about April 28, 2002.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Rising Star of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Thousand Nine Hundred Twenty-Five Dollars (\$2,925) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Five Hundred Eighty-Five Dollars (\$585) is deferred contingent upon Rising Star's timely and satisfactory compliance with the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Rising Star fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Rising Star to pay all or part of the deferred penalty. Two Thousand Three Hundred Forty

Dollars (\$2,340) shall be conditionally offset by Rising Star's completion of a Supplemental Environmental Project.

6. 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.
7. The Executive Director of the TCEQ and Rising Star have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Rising Star has implemented the following corrective measures at the Facility:
 - a. Completed installation of backflow prevention devices at the funeral home, grade school, two beauty salons, medical clinic and nursing home by March 8, 2002;
 - b. Began maintaining a supply of calcium hypochlorite at the Facility by March 11, 2002; and
 - c. Completed repair of the cracked sealing blocks around well head nos. 3, 9 and 11 by May 30, 2002.
9. The Executive Director may, without further notice of 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 Rising Star has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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, Rising Star is alleged to have:

1. Failed to have additional protection at the meter in the form of an air gap or backflow prevention assembly at the following locations: funeral home, grade school, two beauty salons, medical clinic and nursing home, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A), as documented during an investigation conducted by the TCEQ Abilene Regional Office on February 27, 2002;
2. Failed to keep a supply of calcium hypochlorite disinfectant on hand for making repairs to the drinking water system, in violation of 30 TEX. ADMIN. CODE § 290.46(h), as documented during an investigation conducted by the TCEQ Abilene Regional Office on February 27, 2002; and

3. Failed to repair cracked sealing blocks around well head nos. 3, 9 and 11, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(J), as documented during an investigation conducted by the TCEQ Abilene Regional Office on February 27, 2002.

III. DENIALS

Rising Star generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Rising Star pay an administrative penalty as set forth in Section I, Paragraph 5 above. The imposition of this administrative penalty and Rising Star'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 Rising Star, Docket No. 2003-0385-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. Rising Star shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with Tex. Water Code § 7.067. As set forth in Section I, Paragraph 5 above, Two Thousand Three Hundred Forty Dollars (\$2,340) of the assessed administrative penalty shall be offset with the condition that Rising Star implement the SEP defined in Attachment A, incorporated herein by reference. Rising Star's obligation to pay the conditionally offset portion of the administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon Rising Star. Rising Star 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. This Agreed Order, issued by the Commission, shall not be admissible against Rising Star 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.

5. 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.
6. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Rising Star, or three days after the date on which the Commission mails notice of the Order to Rising Star, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

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, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.



Signature

May 4, 2007

Date

Earl Harris

Name (Printed or typed)
Authorized Representative of
City of Rising Star

Mayor

Title



For: Lydia Gonzalez Gromatzky
Deputy Director
Office of Legal Services
Texas Commission on Environmental Quality

10/3/07

Date

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: 2003-0385-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Rising Star
Payable Penalty Amount: Two Thousand Three Hundred Forty Dollars (\$2,340)
SEP Amount: Two Thousand Three Hundred Forty Dollars (\$2,340)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Plugging Abandoned Water Wells
Location of SEP: Eastland 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 plug abandoned water wells where there is no responsible party that can be identified to plug the well.

All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 reducing the threat to state ground water supplies. Abandoned wells are a direct channel for contaminants to reach groundwater. This project will also reduce the safety threat abandoned wells pose to humans, livestock, and wildlife.

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
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.

