

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0389-PWS-E **TCEQ ID:** RN101387363 **CASE NO.:** 32940

RESPONDENT NAME: City of Brackettville

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 Brackettville, Farm-to-Market 674 one block north of Highway 90 at City Hall, Brackettville, Kinney County</p> <p>TYPE OF OPERATION: Public water supply</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 this facility location.</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 September 10, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Barnett, Enforcement Division, Enforcement Team 2, R-12, (713) 767-3680; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Eduardo Esparza, Mayor, City of Brackettville, Post Office Box 526, Brackettville, Texas 78832 Ms. Bonnie Mayes, City Secretary, City of Brackettville, Post Office Box 526, Brackettville, Texas 78832 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 13, 2007</p> <p>Date of NOE Relating to this Case: February 28, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Nine violations were documented.</p> <p>WASTE</p> <p>1) Failure to obtain sanitary control easements covering land within 150 feet of the well. Specifically, the sanitary control easements for well No. 2 had not been submitted at the time of the investigation [30 TEX. ADMIN CODE § 290.41(c)(1)(F)].</p> <p>2) Failure to develop a backflow prevention program. Specifically, the Respondent failed to institute procedures to identify and/or test backflow prevention devices [30 TEX. ADMIN CODE § 290.44(h)].</p> <p>3) Failure to provide two or more pumps with a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, the system provided a total of 1000 gpm of pump capacity, which is approximately 38% deficient of the 1608 gallons per minute required for 804 connections [30 TEX. ADMIN CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>4) Failure to provide an elevated storage tank capacity of 100 gallons per connection. Specifically, the system provided 0.075 million gallons ("MG") of elevated storage capacity, which is approximately 6% deficient of the 0.08 MG required for 804 connections [30 TEX. ADMIN CODE § 290.45(b)(1)(D)(iv) and</p>	<p>Total Assessed: \$1,056</p> <p>Total Deferred: \$211 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$845</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 checked="" 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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of the Agreed Order:</p> <p>i. Develop and institute a backflow prevention program that ensures that all backflow prevention devices are identified and tested and installs devices where an actual or potential contamination hazard exists, in accordance with 30 TEX. ADMIN. CODE § 290.44;</p> <p>ii. Conduct inspections of the ground storage tank and the elevated storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.46;</p> <p>iii. Verify the accuracy of the manual disinfectant residual analyzer at least once every 30 days using solutions of known concentrations, in accordance with TEX. ADMIN. CODE § 290.46;</p> <p>iv. Prepare and begin maintaining an up-to-date chemical and microbiological monitoring plan that can be made available at the time of Commission inspection, in accordance with 30 TEX. ADMIN. CODE § 290.121; and</p> <p>v. Obtain and begin maintaining water system records, including but not limited to, tank inspection records, well data and NSF International Certification for the vertical turbine pump oil used on the wells, in accordance with 30 TEX. ADMIN. CODE § 290.46.</p> <p>b. Within 60 days after the effective date of the Agreed Order:</p> <p>i. Submit written certification as described in Ordering Provision No. 2.d. in the Agreed Order, and include detailed supporting documentation to demonstrate compliance with Ordering Provision a.;</p> <p>ii. Secure the required sanitary control easements or exceptions to the easement requirement for well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.41; and</p>

<p>TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>5) Failure to provide the Facility's operating records for review during inspections. Specifically, during the investigation, the Respondent failed to provide tank inspection records, well data and NSF Certification for the vertical turbine pump oil used on the wells [30 TEX. ADMIN CODE § 290.46(f)(2)].</p> <p>6) Failure to annually inspect the ground and elevated storage tanks [30 TEX. ADMIN CODE § 290.46(m)(1)].</p> <p>7) Failure to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted. Specifically, there was no documentation of signed customer service agreements or complete customer service inspections available for review at the investigation [30 TEX. ADMIN CODE § 290.46(i) and (j)].</p> <p>8) Failure to verify the accuracy of the manual disinfectant residual analyzer at least once every 30 days using solutions of known concentrations. Specifically, during the investigation, the Respondent's representative stated that the manual disinfectant residual analyzer was not checked for accuracy [30 TEX. ADMIN CODE § 290.46(s)(2)(C)(i)].</p> <p>9) Failure to maintain an up-to-date chemical and microbiological monitoring plan [30 TEX. ADMIN CODE § 290.121(a)].</p>		<p>iii. Establish an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in accordance with 30 TEX. ADMIN. CODE § 290.46.</p> <p>c. Within 90 days after the effective date of the Agreed Order:</p> <p>i. Submit written certification as described in Ordering Provision No. 2.d. in the Agreed Order, and include detailed supporting documentation to demonstrate compliance with Ordering Provision b.;</p> <p>ii. Provide a minimum of two service pumps with a minimum capacity of 2.0 gallons per minute per connection, and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, in accordance with 30 TEX. ADMIN. CODE § 290.45; and</p> <p>iii. Provide an elevated storage tank capacity of 100 gallons per connection or obtain an exception to the requirement, in accordance with 30 TEX. ADMIN. CODE § 290.45.</p> <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. in the Agreed Order.</p>
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Penalty Calculation Worksheet (PCW)

DATES	Assigned	5-Mar-2007	Screening	14-Mar-2007	EPA Due	
	PCW	27-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Brackettville
Reg. Ent. Ref. No.	RN101387363
Facility/Site Region	16-Laredo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32940	No. of Violations	9
Docket No.	2007-0389-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Anita Keese
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$960
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10% Enhancement	Subtotals 2, 3, & 7	\$96
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Notes: Penalty enhancement is based on two Notices of Violation with the same or similar violations as those in the current enforcement action.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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

Total EB Amounts	\$1,416	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$17,700	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,056
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$1,056
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,056
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DEFERRAL	20% Reduction	Adjustment	-\$211
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$845
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Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

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)	2	10%
	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%
<i>Please Enter Yes or No</i>			
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) 10%

>> 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

Penalty enhancement is based on two Notices of Violation with the same or similar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code § 290.41(c)(1)(F)

Violation Description Failed to obtain sanitary control easements covering land within 150 feet of the well. Specifically, the sanitary control easements for well No. 2 had not been submitted at the time of the investigation.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to obtain a sanitary control easement could expose customers of the water supply to an insignificant amount of pollutants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 29

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$55

This violation Final Assessed Penalty (adjusted for limits) \$55

Economic Benefit Worksheet

Respondent City of Brackettville
Case ID No. 32940
Reg. Ent. Reference No. RN101387363
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
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No commas or \$

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)	\$400	13-Feb-2007	30-Sep-2007	0.6	\$13	n/a	\$13

Notes for DELAYED costs

Estimated cost to obtain sanitary control easements or an exception to the easement requirement for the well.
 The date required is the date of the investigation and the final date is the projected 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 cost associated with this violation.

Approx. Cost of Compliance

\$400

TOTAL

\$13

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: City of Brackettville
Case ID No.: 32940
Reg. Ent. Reference No.: RN101387363
Media: Public Water Supply
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

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)	\$500	13-Feb-2007	30-Sep-2007	0.6	\$16	n/a	\$16

Notes for DELAYED costs

Estimated cost to produce and implement a backflow prevention program. The date required is the date of the investigation and the 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 cost associated with this violation.

Approx. Cost of Compliance

\$500

TOTAL

\$16

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 3

Rule Cite(s) 30 Tex. Admin Code § 290.45(b)(1)(D)(iii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide two or more pumps with a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, the system provided a total of 1000 gpm of pump capacity, which is approximately 38% deficient of the 1608 gallons per minute required for 804 connections.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 29

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation on February 13, 2007 to the date of case screening on March 14, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$616

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

Economic Benefit Worksheet

Respondent City of Brackettville
Case ID No. 32940
Reg. Ent. Reference No. RN101387363
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings	\$10,000	13-Feb-2007	31-Dec-2007	0.9	\$29	\$586	\$616
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

The delayed costs includes the amount to provide two or more pumps with a total capacity of 2.0 gallons per minute ("gpm") per connection for the 804 connections. The date required is the date of the investigation and the 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 cost associated with this violation.

Approx. Cost of Compliance

\$10,000

TOTAL

\$616

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 4

Rule Cite(s) 30 Tex. Admin Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide an elevated storage tank capacity of 100 gallons per connection. Specifically, the system provided 0.075 million gallons ("MG") of elevated storage capacity, which is approximately 6% deficient of the 0.08 MG required for 804 connections.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Without sufficient capacity, the customers of the water supply could experience water shortages and the system's ability to provide a safe and reliable water supply could be compromised.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 29

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$308

Violation Final Penalty Total \$55

This violation Final Assessed Penalty (adjusted for limits) \$55

Economic Benefit Worksheet

Respondent City of Brackettville
Case ID No. 32940
Reg. Ent. Reference No. RN101387363
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment	\$5,000	13-Feb-2007	31-Dec-2007	0.9	\$15	\$293	\$308
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

The estimated cost to provide an elevated storage capacity of a minimum of 100 gallons per connection for 804 connections. The date required is the investigation date and the final date is the projected 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 cost associated with this violation.

Approx. Cost of Compliance

\$5,000

TOTAL

\$308

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 5

Rule Cite(s) 30 Tex. Admin Code § 290.46(f)(2)

Violation Description Failed to provide the public water system's operating records for review during inspections. Specifically, during the investigation, the respondent failed to provide tank inspection records, well data and NSF Certification for the vertical turbine pump oil used on the wells.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%

Matrix Notes Approximately 20% of the water system records were unavailable at the time of the investigation.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 29 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$11

This violation Final Assessed Penalty (adjusted for limits) \$11

Economic Benefit Worksheet

Respondent: City of Brackettville
Case ID No.: 32940
Reg. Ent. Reference No.: RN101387363
Media: Public Water Supply
Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$600	13-Feb-2007	30-Sep-2007	0.6	\$19	n/a	\$19
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

The estimated cost to develop and maintain operation records, including tank inspection records, well data and NSF Certification for the vertical turbine pump oil used on the wells, at all times at the water system. The date required is the investigation date and the final date is the projected 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 cost associated with this violation.

Approx. Cost of Compliance

\$600

TOTAL

\$19

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 6

Rule Cite(s) 30 Tex. Admin Code § 290.46(m)(1)

Violation Description Failed to annually inspect the ground and elevated storage tanks.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Failure to perform annual inspections of the storage tanks could result in non-detection of tank defects that could expose customers of the water supply to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 29

Table with frequency options: daily, monthly, quarterly, semiannual, annual (marked with x), single event.

Violation Base Penalty \$200

Two annual events (one for each tank) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$420

Violation Final Penalty Total \$220

This violation Final Assessed Penalty (adjusted for limits) \$220

Economic Benefit Worksheet

Respondent City of Brackettville
Case ID No. 32940
Reg. Ent. Reference No. RN101387363
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				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

There are no delayed cost associated with this violation.

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	\$400	13-Feb-2006	13-Feb-2007	1.0	\$20	\$400	\$420
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

The estimated cost for an annual storage tank inspection for two tanks. The date required is one year prior to the investigation date.

Approx. Cost of Compliance

\$400

TOTAL

\$420

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 7

Rule Cite(s) 30 Tex. Admin Code § 290.46(i) and (j)

Violation Description Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted. Specifically, there was no documentation of signed customer service agreements or complete customer service inspections available for review at the investigation.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

1 29 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

Economic Benefit Worksheet

Respondent City of Brackettville
Case ID No. 32940
Reg. Ent. Reference No. RN101387363
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				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)	\$500	13-Feb-2007	30-Sep-2007	0.6	\$16	n/a	\$16

Notes for DELAYED costs

Estimated cost to adopt an adequate plumbing ordinance or service agreement. The date required is the date of the investigation and the 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 cost associated with this violation.

Approx. Cost of Compliance

\$500

TOTAL

\$16

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 8

Rule Cite(s)

30 Tex. Admin Code § 290.46(s)(2)(C)(i)

Violation Description

Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 30 days using solutions of known concentrations. Specifically, during the investigation, the Respondent's representative stated that the manual disinfectant residual analyzer was not checked for accuracy.

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

Failure to verify the accuracy of the manual disinfectant residual analyzer could result in improper disinfection or treatment of water and potentially expose the public to significant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

1

29

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation on February 13, 2007 to the date of case screening on March 14, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

Economic Benefit Worksheet

Respondent: City of Brackettville
Case ID No.: 32940
Reg. Ent. Reference No.: RN101387363
Media: Public Water Supply
Violation No.: 8

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	\$100	13-Feb-2007	30-Sep-2007	0.6	\$3	n/a	\$3
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 estimated cost to verify the accuracy of the manual disinfectant residual analyzer at least once every 30 days using solutions of known concentrations. The date required is the date of the investigation and the final date is the projected 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 cost associated with this violation.

Approx. Cost of Compliance

\$100

TOTAL

\$3

Screening Date 14-Mar-2007

Docket No. 2007-0389-PWS-E

PCW

Respondent City of Brackettville

Policy Revision 2 (September 2002)

Case ID No. 32940

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101387363

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
<input type="text" value="The respondent failed to comply with 100% of the rule requirement."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Brackettville
Case ID No. 32940
Reg. Ent. Reference No. RN101387363
Media Public Water Supply
Violation No. 9

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)	\$200	13-Feb-2007	30-Sep-2007	0.6	\$6	n/a	\$6

Notes for DELAYED costs

This is an estimated cost to prepare an up-to-date chemical and microbiological monitoring plan. The date required is the investigation date and the final date is the projected 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 cost associated with this violation.

Approx. Cost of Compliance

\$200

TOTAL

\$6

Compliance History

Customer/Respondent/Owner-Operator:	CN600335301 City of Brackettville	Classification: AVERAGE	Rating: 1.35
Regulated Entity:	RN101387363 CITY OF BRACKETTVILLE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1360001
	WATER LICENSING	LICENSE	1360001
Location:	FM 674 ONE BLOCK NORTH OF HWY 90, BRACKETTVILLE, TX, 78832		
TCEQ Region:	REGION 16 - LAREDO		
Date Compliance History Prepared:	April 17, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 17, 2002 to April 17, 2007		

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

Name: Anita Keese Phone: (956) 430-6034

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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 | 11/19/2002 | (16061) | |
| 2 | 01/29/2003 | (23131) | |
| 3 | 02/27/2004 | (263852) | |
| 4 | 07/09/2004 | (277831) | |
| 5 | 12/29/2004 | (345611) | |
| 6 | 02/28/2007 | (541395) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|-----------------|----------|
| Date: | 11/22/2002 | (16061) | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(j)[G] | | |
| Description: | Failure to provide a Customer Service Inspection program. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C) | | |
| Description: | Failure to establish a program to provide protection against backflow and siphonage, potential contamination and health hazards. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B) | | |
| Description: | Failure to conduct daily chlorine residual monitoring in the distribution. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | | |
| Description: | Failure to provide sanitary control easements for the wells. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.42(i) | | |
| Description: | Failure to provide ANSI/NSF Standard 60 certification for the disinfectant used in the water system. | | |
| Self Report? | NO | Classification: | Minor |

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]
Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20[G]
Description: Failure to provide a copy of an adopted drought contingency plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]
Description: Failure to conduct annual inspections on the pressure tank, elevated storage tank, and ground storage tank.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
Description: Failure to provide a operable water level indicator on the elevated storage tank.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)[G]
Description: Failure by the regulated entity, which serves more than 250 connections and only uses groundwater, to be at all times under the direct supervision of a competent water works operator holding a valid Class "C" or higher Groundwater license.

Date: 07/09/2004 (277831)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
Description: Failure to flush all dead-end mains monthly, or more often if required, to maintain water quality.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
Description: Failure to meet the required elevated storage capacity.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to meet the required service pump capacity.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for well No. 2.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BRACKETTVILLE
RN101387363

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0389-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 City of Brackettville ("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 appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at Farm-to-Market 674 one block north of Highway 90 in Brackettville, Kinney County, Texas (the "Facility") that has approximately 804 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Fifty-Six Dollars (\$1,056) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Eight Hundred Forty-Five Dollars (\$845) of the administrative penalty and Two Hundred Eleven Dollars (\$211) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily

comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

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 the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to obtain sanitary control easements covering land within 150 feet of the well, in violation of 30 TEX. ADMIN CODE § 290.41(c)(1)(F), as documented during an investigation conducted on February 13, 2007.
2. Failed to develop a backflow prevention program, in violation of 30 TEX. ADMIN CODE § 290.44(h), as documented during an investigation conducted on February 13, 2007.
3. Failed to provide two or more pumps with a total capacity of 2.0 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on February 13, 2007.
4. Failed to provide an elevated storage tank capacity of 100 gallons per connection, in violation of 30 TEX. ADMIN CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on February 13, 2007.
5. Failed to provide the Facility's operating records for review during inspections, in violation of 30 TEX. ADMIN CODE § 290.46(f)(2), as documented during an investigation conducted on February 13, 2007.
6. Failed to annually inspect the ground and elevated storage tanks, in violation of 30 TEX. ADMIN CODE § 290.46(m)(1), as documented during an investigation conducted on February 13, 2007.

7. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in violation of 30 TEX. ADMIN CODE § 290.46(i) and (j), as documented during an investigation conducted on February 13, 2007.
8. Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 30 days using solutions of known concentrations, in violation of 30 TEX. ADMIN CODE § 290.46(s)(2)(C)(i), as documented during an investigation conducted on February 13, 2007.
9. Failed to maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN CODE § 290.121(a), as documented during an investigation conducted on February 13, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from 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 Brackettville, Docket No. 2007-0389-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. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of the Agreed Order:
 - i. Develop and institute a backflow prevention program that ensures that all backflow prevention devices are identified and tested and installs devices where an actual or potential contamination hazard exists, in accordance with 30 TEX. ADMIN. CODE § 290.44;
 - ii. Conduct inspections of the ground storage tank and the elevated storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iii. Verify the accuracy of the manual disinfectant residual analyzer at least once every 30 days using solutions of known concentrations, in accordance with TEX. ADMIN. CODE § 290.46;

- iv. Prepare and begin maintaining an up-to-date chemical and microbiological monitoring plan that can be made available at the time of Commission inspection, in accordance with 30 TEX. ADMIN. CODE § 290.121; and
 - v. Obtain and begin maintaining water system records, including but not limited to, tank inspection records, well data and NSF International Certification for the vertical turbine pump oil used on the wells, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- b. Within 60 days after the effective date of the Agreed Order:
- i. Submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a.;
 - ii. Secure the required sanitary control easements or exceptions to the easement requirement for well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
 - iii. Establish an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- c. Within 90 days after the effective date of the Agreed Order:
- i. Submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.b.;
 - ii. Provide a minimum of two service pumps with a minimum capacity of 2.0 gallons per minute per connection, and the ability to meet peak hourly demands with the largest pump out of service, whichever is less, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - iii. Provide an elevated storage tank capacity of 100 gallons per connection or obtain an exception to the requirement, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- d. 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 No. 2.c. 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
Laredo Regional Office
Texas Commission on Environmental Quality
1403 Seymour, Suite 2
Laredo, Texas 78040-8752

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. 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.
5. 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.
6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolner
For the Executive Director

8/27/07
Date

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

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

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

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

Bonnie Mayes
Signature

6-25-07
Date

BONNIE MAYES
Name (Printed or typed)
Authorized Representative of
City of Brackettville

CITY SECRETARY
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.

