

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0367-PWS-E **TCEQ ID:** RN102546108 **CASE NO.:** 32889

RESPONDENT NAME: City of Bonham

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
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 Bonham Public Water Supply, 2057 North Farm-to-Market Road 273, Bonham, Fannin 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 3, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1462; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Roy Floyd, Mayor, City of Bonham, 301 East Fifth Street, Bonham, Texas 75418; Mr. Corby Alexander, City Manager, City of Bonham, 301 East Fifth Street, Bonham, Texas 78418 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" 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 7, 2007</p> <p>Date of NOV/NOE Relating to this Case: February 10 and July 22, 2005; January 11 and November 8, 2006; and January 30, 2007 (NOVs)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") based on a running annual average for TTHM. Specifically, the running annual average concentration for TTHM was 0.090 mg/L for the second quarter of 2005, 0.081 mg/L for the fourth quarter 2005, 0.085 mg/L for the third quarter 2006, and 0.093 mg/L for the fourth quarter 2006 [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2003-0312-MLM-E, Ordering Provision Nos. 3.a. and 3.b.].</p>	<p>Total Assessed: \$2,970</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,970</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Nine prior NOVs within a five year period that contain the same or similar violations as the current enforcement action.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of the Agreed Order, return to compliance with the running annual average MCL of TTHM; and</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	5-Mar-2007	Screening	9-Mar-2007	EPA Due	1-Dec-2007
	PCW	9-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Bonham
Reg. Ent. Ref. No.	RN102546108
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	32889	No. of Violations	1
Docket No.	2007-0367-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeodur
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,500
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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	73% Enhancement	Subtotals 2, 3, & 7	\$1,095
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Notes
The enhancement is due to nine prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, four dissimilar NOVs, and one prior Agreed Order containing a denial of liability.

Culpability	Yes	25% Enhancement	Subtotal 4	\$375
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Notes
The respondent received two alert letters for total trihalomethanes ("TTHM") exceedances, dated November 14, 2005 and July 10, 2006.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes
The Respondent does not meet the good faith criteria.

Total EB Amounts	\$1,521	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$5,000	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,970
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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	\$2,970
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,970
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,970
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Screening Date 9-Mar-2007

Docket No. 2007-0367-PWS-E

PCW

Respondent City of Bonham

Policy Revision 2 (September 2002)

Case ID No. 32889

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102546108

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

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)	9	45%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments 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) 73%

>> 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

The enhancement is due to nine prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, four dissimilar NOVs, and one prior Agreed Order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 73%

Screening Date 9-Mar-2007

Docket No. 2007-0367-PWS-E

PCW

Respondent City of Bonham

Policy Revision 2 (September 2002)

Case ID No. 32889

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102546108

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2003-0312-MLM-E, Ordering Provision Nos. 3.a. and 3.b.

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") based on a running annual average for TTHM. Specifically, the running annual average concentration for TTHM was 0.090 mg/L for the second quarter of 2005, 0.081 mg/L for the fourth quarter 2005, 0.085 mg/L for the third quarter 2006, and 0.093 mg/L for the fourth quarter 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Customers of the water supply have been exposed to significant amounts of pollutants which did not exceed levels protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 3 Number of violation days 786

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

Violation Base Penalty \$1,500

Three annual events are recommended, calculated from the effective date, January 12, 2005, of TCEQ Agreed Order Docket No. 2003-0312-MLM-E.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,521

Violation Final Penalty Total \$2,970

This violation Final Assessed Penalty (adjusted for limits) \$2,970

Economic Benefit Worksheet

Respondent: City of Bonham
Case ID No.: 32889
Reg. Ent. Reference No.: RN102546108
Media: Public Water Supply
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Sep-2002	30-Sep-2008	6.1	\$1,521	n/a	\$1,521

Notes for DELAYED costs

Estimated cost to implement an alternative method of disinfection. The date required is the first date of exceedence. 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

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,521

Compliance History

Customer/Respondent/Owner-Operator:	CN600435762 City of Bonham	Classification: AVERAGE	Rating: 7.41
Regulated Entity:	RN102546108 CITY OF BONHAM PWS	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0740001
	WATER LICENSING	LICENSE	0740001
Location:	2057 N FM 273, BONHAM, FANNIN COUNTY, TEXAS		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 05, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 05, 2002 to March 05, 2007		

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/30/2005	ADMINORDER 2003-0312-MLM-E
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5) 5A THC Chapter 341, SubChapter A 341.0315(c)	
Description: Exceedance of HAA5 MCL	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4) 5A THC Chapter 341, SubChapter A 341.0315(c)	
Description: Exceedance of TTHM MCL.	

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 | 11/04/2002 | (11954) |
| 2 | 10/30/2003 | (253553) |
| 3 | 01/27/2004 | (151662) |
| 4 | 02/05/2004 | (254131) |
| 5 | 03/25/2004 | (539878) |
| 6 | 04/29/2004 | (26608) |
| 7 | 05/17/2004 | (540182) |
| 8 | 08/27/2004 | (540185) |
| 9 | 02/10/2005 | (540243) |
| 10 | 04/19/2005 | (377154) |
| 11 | 07/05/2005 | (381314) |
| 12 | 07/22/2005 | (540285) |
| 13 | 01/11/2006 | (540288) |
| 14 | 04/25/2006 | (461891) |
| 15 | 06/13/2006 | (466521) |
| 16 | 11/08/2006 | (540302) |
| 17 | 01/03/2007 | (535500) |
| 18 | 01/30/2007 | (540310) |
| 19 | 02/28/2007 | (540854) |

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

Date: 10/25/2002 (11954)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]
 Description: Submit photographs showing repaired leak around filter 4.
 Received photograph of insect/spider abatement in water treatment plant, the repaired leak around the clearwell; and the repaired leak at the control valve vault at DeRose Tower.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)
 Description: No backflow prevention on polymer lines.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(10)(A)
 Description: No parallel sedimentation basins

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(8)(A)
 Description: No hydraulic or parallel flash mix

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(9)(A)
 Description: No parallel flocculation units

Date: 12/13/2002 (253553)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceedance of HAA5 MCL

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceedance of TTHM MCL.

Date: 02/06/2004 (254131)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)[G]
 Description: Failure to provide adequate calibration records, specifically Online Chlorimeter, Benchtop Chlorimeter, Online Turbidimeter, 90 day Benchtop 2100N

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
 Description: Failure to provide monthly operating reports, specifically for 1/2003, 7/2003, 9/2003, and 10/2003.

Date: 03/25/2004 (539878)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2004.

Date: 05/17/2004 (540182)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2004.

Date: 08/27/2004 (540185)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2004.

Date: 02/10/2005 (540243)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2004.

Date: 07/05/2005 (381314)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(10)(A)
 Description: No parallel sedimentation basins

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(8)(A)
 Description: No hydraulic or parallel flash mix

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(9)(A)
 Description: No parallel flocculation units
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
 Description: Failure to flush all dead-end and main monthly, or more often if required, to maintain water quality.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)[G]
 Description: Failure to provide adequate containment facilities for all liquid chemical storage tanks.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)
 Description: Failure to provide a flow measuring devices for the recycled decant/backwash and backwash water meter flow.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)
 Description: Failure to provide working method to determining the amount of disinfectant used daily, as well as the amount of disinfectant remaining for use.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(ii)
 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(iii)
 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C)
 30 TAC Chapter 290, SubChapter D 290.44(h)[G]
 Description: Failure to maintain backflow prevention assembly test and maintenance reports.
 Date: 07/22/2005 (540285)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2005.
 Date: 01/11/2006 (540288)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2005.
 Date: 06/16/2006 (466521)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(10)(A)
 Description: No parallel sedimentation basins
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(8)(A)
 Description: No hydraulic or parallel flash mix
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(9)(A)
 Description: No parallel flocculation units
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain the facilities to ensure good working condition and appearance, specifically raw water valve leaking, spider webs and standing water in pipe gallery, fill valve vault at booster pump station is full of water, and treated meter vault is full of water.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)
 Description: Failure to maintain treated water flow meter.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)
 Description: Failure to provide containment facilities for the Chemfloc 1086 (polymer) and Hydrofluorisillic Acid located in chemical feed room on 2nd floor.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(C)[G]
 Description: Failure to maintain the condition of the filter media to provide effective filtration, specifically mud balls and cracking of the media.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)
 Description: Failure to conduct annual inspections on all backflow prevention assemblies used for health hazard protection, specifically the 3 car washes, Dialysis Center, VA Hospital and Red River Hospital.
 Date: 11/08/2006 (540302)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006.

Date: 01/30/2007 (540310)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2006.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BONHAM
RN102546108**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0367-PWS-E**

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

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

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

I. FINDINGS OF FACT

1. The City owns and operates a public water supply located at 2057 North Farm-to-Market Road 273 in Bonham, Fannin County, Texas (the “Facility”) that has approximately 4,789 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on February 7, 2007, TCEQ staff documented that the City exceeded the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") based on a running annual average for total trihalomethanes ("TTHM"). Specifically, the running annual average concentration for TTHM was 0.090 mg/L for the second quarter 2005, 0.081 mg/L for the fourth quarter 2005, 0.085 mg/L for the third quarter 2006, and 0.093 mg/L for the fourth quarter 2006.
3. During a record review on February 7, 2007, TCEQ staff documented that the City did not comply with TCEQ Agreed Order Docket No. 2003-0312-MLM-E, Ordering Provision Nos. 3.a. and 3.b. Specifically, the City failed to comply with TTHM levels and submit certification of compliance.
4. The City received notice of the violations dated February 10, 2005, July 22, 2005, January 11, 2006, November 8, 2006 and January 30, 2007.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact Nos. 2 and 3, the City failed to comply with the MCL for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4), TEX. HEALTH & SAFETY CODE 341.0315(c), and TCEQ Agreed Order Docket Number 2003-0312-MLM-E, Ordering Provision Nos. 3.a. and 3.b.
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Two Thousand Nine Hundred Seventy Dollars (\$2,970) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The City has paid the Two Thousand Nine Hundred Seventy Dollar (\$2,970) administrative penalty.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Two Thousand Nine Hundred Seventy Dollars (\$2,970) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Bonham, Docket No. 2007-0367-PWS-E" to:

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

2. The City shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of the Agreed Order, return to compliance with the running annual average MCL of TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - b. Within 195 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.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

DBP Compliance Coordinator
Water Supply Division, PDWS, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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.

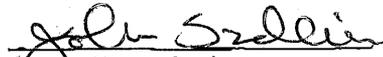
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

City of Bonham
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

Date 10/18/07

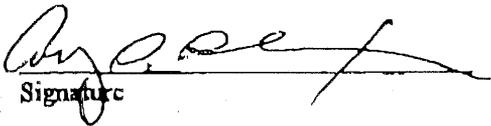
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Bonham. I am authorized to agree to the attached Agreed Order on behalf of the City of Bonham, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

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

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

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

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


Signature

Date 6-18-2007

Cortay Alexander
Name (Printed or typed)
Authorized Representative of
City of Bonham

City Manager
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.

