# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2005-0431-PWS-E **TCEQ ID:** RN101399905 **CASE NO.:** 24871

**RESPONDENT NAME:** City of Mexia

## ORDER TYPE:

| | | | |
|---|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __AMENDED ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __SHUTDOWN ORDER | __FINDINGS DEFAULT ORDER | __EMERGENCY ORDER | |

## CASE TYPE:

| | | | |
|---|---|---|---|
| __AGRICULTURE | __AIR | __INDUSTRIAL AND HAZARDOUS WASTE | __MUNICIPAL SOLID WASTE |
| __OCCUPATIONAL CERTIFICATION | __PETROLEUM STORAGE TANKS | X PUBLIC WATER SUPPLY | __RADIOACTIVE WASTE |
| __MULTI-MEDIA (check all that apply) | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL | __USED OIL |
| __USED OIL FILTER | __WATER QUALITY | | |

**SITE WHERE VIOLATION(S) OCCURRED:** Mexia Public Water Supply, 800 South Belknap, Mexia, Limestone County

**TYPE OF OPERATION:** Public water supply

**SMALL BUSINESS:** ___ Yes __X__ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on March 19, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223
**TCEQ Enforcement Coordinator:** Mr. J. Craig Fleming, Enforcement Division, Enforcement Section II, MC 219, (512) 239-5806; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
**TCEQ Field Investigator:** Mr. Robert Ozment, Waco Regional Office, MC R-09, (254) 751-0335
**Respondent:** The Honorable Steve Brewer, Mayor, City of Mexia, P. O. Box 207, Mexia, Texas 76667
**Respondent's Attorney:** Mr. Arturo D. Rodriguez, Jr., Russell & Rodriguez, L.L.P., 102 West Morrow Street, Suite 103, Georgetown, Texas 78629

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:** __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review<br><br>**Date of Complaint Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** January 3, 2005<br><br>**Date of NOV/NOE Relating to this Case:** April 30, 2004 (NOV), February 16, 2005 (NOE)<br><br>**Background Facts:** This was a routine investigation. Four violations were documented.<br><br>**WATER**<br><br>1) Failed to meet this Agency's "Minimum Water System Capacity Requirements" for purchase capacity [30 TEX. ADMIN. CODE § 290.45(f)(4)].<br><br>2) Failed to establish a formal cross-connection control program that is sufficient to ensure that the public water system is protected from possible contamination from actual or potential contamination hazards [30 TEX. ADMIN. CODE § 290.44(h)(1)(B)(i) and 290.44(h)(4)].<br><br>3) Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)].<br><br>4) Failed to provide where an actual or potential contamination hazard exists additional protection at the meter in the form of an air gap or backflow prevention assembly [30 TEX. ADMIN. CODE §§ 290.44(h)(1)(A) and 290.47(i)]. | **Total Assessed:** $935<br><br>**Total Deferred:** $187<br>_X_ Expedited Settlement<br><br>__ Financial Inability to Pay<br><br>**SEP Conditional Offset:** $748<br><br>**Total Paid (Due) to General Revenue:** $0<br><br>**Site Compliance History Classification:** __ High __ Avg. __ Poor<br><br>**Person Compliance History Classification:** __ High _X_ Avg. __ Poor<br><br>**Major Source:** _X_ Yes __ No<br><br>**Applicable Penalty Policy:** September 2002 | **Ordering Provisions:**<br><br>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)<br><br>2) The Order will also require the Respondent to:<br><br>a. Within 10 days after the effective date of this Agreed Order:<br><br>i. Establish and begin enforcing a formal cross-connection control program for the system;<br><br>ii. Ensure that all water storage facilities, distribution system lines, and related appurtenances are maintained in a watertight condition. This shall include, but not be limited to the underground supply line to the ground storage tank; and<br><br>iii. Install a backflow prevention assembly at the Blair-Stubbs Mortuary.<br><br>b. Within 60 days after the effective date of this Agreed Order, finalize the contract to purchase an additional quantity of water so as to meet the systems capacity requirements; and<br><br>c. Within 75 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 Provisions 2.a. and 2.b. |

# Penalty Calculation Worksheet (PCW)

TCEQ

*Policy Revision 2 (September 2002)* *PCW Revision March 02, 2005*

**DATES** **Assigned** 22-Feb-2005
**PCW** 02-Mar-2005 **Screening** 02-Mar-2005 **Priority Due** 23-Apr-2005 **EPA Due**

**RESPONDENT/FACILITY INFORMATION**

| | |
|---|---|
| **Respondent** | City of Mexia |
| **Reg. Ent. Ref. No.** | RN101399905 |
| **Additional ID No(s).** | Public Water Supply No. 1470004 |
| **Facility/Site Region** | 9-Waco |
| **Major/Minor Source** | Major Source |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| **Enf./Case ID No.** | 24871 | **No. of Violations** | 4 |
| **Docket No.** | 2005-0431-PWS-E | **Order Type** | 1660 |
| **Case Priority** | 3 | **Enf. Coordinator** | J. Craig Fleming |
| **Media Program(s)** | Public Water Supply | **EC's Team** | Enforcement Team 3 |
| **Multi-Media** | | | |
| **Admin. Penalty $ Limit Minimum** | $50 | **Maximum** | $1,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* $850

**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* $85

Notes: The administrative penalty is enhanced because the respondent has 2 written NOVs issued on August 24, 2001 and April 29, 2004 for same or similar violations for this facility.

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

Notes: The respondent does not meet the culpability criteria.

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

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---|---|---|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | *(mark with a small x)* |

Notes: The respondent is not yet in compliance.

**Economic Benefit** 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $711 |
| Approx. Cost of Compliance | $15,450 |

**SUM OF SUBTOTALS 1-7** **Final Subtotal** $935

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

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

Notes:

**Final Penalty Amount** $935

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** $935

**DEFERRAL** 20% Reduction **Adjustment** -$187

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** $748

**Screening Date** 02-Mar-2005 **Docket No.** 2005-0431-PWS-E **PCW**
**Respondent** City of Mexia *Policy Revision 2 (September 2002)*
**Case ID No.** 24871 *PCW Revision March 02, 2005*
**Reg. Ent. Reference No.** RN101399905
**Additional ID No(s).** Public Water Supply No. 1470004
**Media [Statute]** Public Water Supply
**Enf. Coordinator** J. Craig Fleming
**Site Address** 800 South Belknap, Mexia, Limestone County

## 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* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)* | 0 | 0% |
| | | *Please Enter Yes or No* | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

***Adjustment Percentage (Subtotal 2)*** **10%**

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

No <

***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 administrative penalty is enhanced because the respondent has 2 written NOVs issued on August 24, 2001 and April 29, 2004 for same or similar violations for this facility.

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

**Screening Date** 02-Mar-2005 **Docket No.** 2005-0431-PWS-E **PCW**

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

**Case ID No.** 24871 *PCW Revision March 02, 2005*

**Reg. Ent. Reference No.** RN101399905

**Additional ID No(s).** Public Water Supply No. 1470004

**Media [Statute]** Public Water Supply

**Enf. Coordinator** J. Craig Fleming

**Violation Number** 1

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 290.45(f)(4)

**Secondary Rule Cite(s)**

**Violation Description** Failed to meet this Agency's "Minimum Water System Capacity Requirements" for purchase capacity. Specifically, the purchase contract with Bistone MWSD stated the maximum purchase rate as 2.5 MGPD or 1736.1 gallons per minute whereas 2484.6 gallons per minute is required, as documented during the investigation conducted on January 3, 2005.

**Base Penalty** $1,000

>> **Environmental, Property and Human Health Matrix**

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | x | |

OR

**Percent** 25%

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Exceeding facilities capabilities and the inability to supply the maximum daily demand will or could expose human health to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** -$750

**Base Penalty Subtotal** $250

**Violation Events**

Number of Violation Events 1

| mark only one use a small x | |
|---|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $250

One quarterly event is recommended based on the investigation conducted on January 3, 2005 to the screening date of March 7, 2005.

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** $462 **Violation Final Penalty Total** $275

**This violation Final Assessed Penalty (adjusted for limits)** $275

# Economic Benefit Worksheet

**Respondent** City of Mexia
**Case ID No.** 24871
**Reg. Ent. Reference No.** RN101399905
**Additional ID No(s).** Public Water Supply No. 1470004
**Media [Statute]** Public Water Supply
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | $10,000 | 03-Jan-2005 | 01-Sep-2005 | 0.7 | $22 | $440 | $462 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

**Notes for DELAYED costs** Estimated additional cost for increasing the facility's purchased water capacity. The Date Required was the date of the initial investigation. The Final Date is the expected 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** NA

**Approx. Cost of Compliance** $10,000

**TOTAL** $462

**Screening Date** 02-Mar-2005 **Docket No.** 2005-0431-PWS-E **PCW**

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

**Case ID No.** 24871 *PCW Revision March 02, 2005*

**Reg. Ent. Reference No.** RN101399905

**Additional ID No(s).** Public Water Supply No. 1470004

**Media [Statute]** Public Water Supply

**Enf. Coordinator** J. Craig Fleming

**Violation Number** 2

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 290.44(h)(1)(B)(i) and 290.44(h)(4)

**Secondary Rule Cite(s)**

**Violation Description** Failure to establish a formal cross-connection control program that is sufficient to ensure that the public water system is protected from possible contamination from actual or potential contamination hazards. Specifically, the respondent did not have the required backflow prevention assemblies installed and tested as required, as documented during the investigation conducted on January 3, 2005.

**Base Penalty** $1,000

>> **Environmental, Property and Human Health Matrix**

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | x | |

**Percent** 25%

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Not having an adequate cross-connection control program will or could expose human health or the environment to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** -$750

**Base Penalty Subtotal** $250

**Violation Events**

Number of Violation Events 1

*mark only one use a small x*

| | |
|---|---|
| *daily* | |
| *monthly* | |
| *quarterly* | x |
| *semiannual* | |
| *annual* | |
| *single event* | |

**Violation Base Penalty** $250

One quarterly event is recommended based on the investigation date of January 3, 2005 to the screening date of March 7, 2005.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $234

**Statutory Limit Test**

**Violation Final Penalty Total** $275

**This violation Final Assessed Penalty (adjusted for limits)** $275

# Economic Benefit Worksheet

**Respondent** City of Mexia
**Case ID No.** 24871
**Reg. Ent. Reference No.** RN101399905
**Additional ID No(s).** Public Water Supply No. 1470004
**Media [Statute]** Public Water Supply
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | $5,000 | 03-Jan-2005 | 01-Sep-2005 | 0.7 | $11 | $220 | $231 |
| 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) | $100 | 03-Jan-2005 | 01-Sep-2005 | 0.7 | $3 | n/a | $3 |

**Notes for DELAYED costs** This is an estimated cost to establish and enforce a formal cross-connection control program and install backflow preventers where required in the system. The Date Required was the date of the investigation. The Final Date is the expected 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** NA

**Approx. Cost of Compliance** $5,100

**TOTAL** $234

**Screening Date** 02-Mar-2005 **Docket No.** 2005-0431-PWS-E **PCW**

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

**Case ID No.** 24871 *PCW Revision March 02, 2005*

**Reg. Ent. Reference No.** RN101399905

**Additional ID No(s).** Public Water Supply No. 1470004

**Media [Statute]** Public Water Supply

**Enf. Coordinator** J. Craig Fleming

**Violation Number** 3

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

**Secondary Rule Cite(s)**

**Violation Description** Failure to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition. Specifically, the underground supply line to the ground storage tank was leaking excessively, as documented during the investigation conducted on January 3, 2005.

**Base Penalty** $1,000

>> **Environmental, Property and Human Health Matrix**

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | x |

OR

**Percent** 10%

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Failure to repair leaks exposes the system to insignificant amounts of pollutants which do not exceed levels that are protective of human health and the environment.

**Adjustment** -$900

**Base Penalty Subtotal** $100

**Violation Events**

Number of Violation Events 1

| mark only one use a small x | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $100

One single event is recommended as per the penalty policy.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $3

**Statutory Limit Test**

**Violation Final Penalty Total** $110

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

# Economic Benefit Worksheet

**Respondent** City of Mexia
**Case ID No.** 24871
**Reg. Ent. Reference No.** RN101399905
**Additional ID No(s).** Public Water Supply No. 1470004
**Media [Statute]** Public Water Supply
**Violation No.** 3

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 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) | $100 | 03-Jan-2005 | 01-Sep-2005 | 0.7 | $3 | n/a | $3 |

**Notes for DELAYED costs** This the estimated cost to repair the underground supply line to the ground storage tank. The Date Required was the date of the investigation. The Final Date is the expected 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** NA

**Approx. Cost of Compliance** $100

**TOTAL** $3

**Screening Date** 02-Mar-2005 **Docket No.** 2005-0431-PWS-E **PCW**

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

**Case ID No.** 24871 *PCW Revision March 02, 2005*

**Reg. Ent. Reference No.** RN101399905

**Additional ID No(s).** Public Water Supply No. 1470004

**Media [Statute]** Public Water Supply

**Enf. Coordinator** J. Craig Fleming

**Violation Number** 4

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 290.44(h)(1)(A)

**Secondary Rule Cite(s)** 30 Tex. Admin. Code § 290.47(i)

**Violation Description** Failed to provide where an actual or potential contamination hazard exists additional protection at the meter in the form of an air gap or backflow prevention assembly. Specifically, there was no check valve backflow prevention assembly or an air gap at the Blair-Stubbs Mortuary as required by 30 TAC § 290.47(l), as documented during the investigation conducted on January 3, 2005.

**Base Penalty** $1,000

>> **Environmental, Property and Human Health Matrix**

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | x | |

**Percent** 25%

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

Matrix Notes: Not having an adequate air gap or backflow prevention assembly will or could expose human health or the environment to pollutants of significant amounts which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** -$750

**Base Penalty Subtotal** $250

**Violation Events**

Number of Violation Events 1

| mark only one use a small x | |
|---|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $250

One quarterly event is recommended from the investigation conducted on January 3, 2005 to the screening date of March 7, 2005.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** $12

**Statutory Limit Test**

**Violation Final Penalty Total** $275

**This violation Final Assessed Penalty (adjusted for limits)** $275

# Economic Benefit Worksheet

**Respondent** City of Mexia
**Case ID No.** 24871
**Reg. Ent. Reference No.** RN101399905
**Additional ID No(s).** Public Water Supply No. 1470004
**Media [Statute]** Public Water Supply
**Violation No.** 4

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | $250 | 03-Jan-2005 | 01-Sep-2005 | 0.7 | $1 | $11 | $12 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | | | | 0.0 | $0 | n/a | $0 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Remediation/Disposal | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

**Notes for DELAYED costs** Estimated cost to install an approved backflow prevention device. The Date required was the date of the investigation. The Final date is the expected 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** NA

**Approx. Cost of Compliance** $250

**TOTAL** $12

# Compliance History
**(For Penalty Purposes Only)**

| | |
|---|---|
| Customer/Respondent/Owner-Operator: | CN600510218 City of Mexia Classification: AVERAGE Rating:1.980 |
| Regulated Entity: | RN101399905 CITY OF MEXIA Classification: Site Rating: |
| ID Number(s): | WATER LICENSING LICENSE<br>1470004<br>PUBLIC WATER SYSTEM/SUPPLY REGISTRATION<br>1470004 |
| Location: | P. O. Box 207, Mexia, Texas 76667 Repeat Violator: NO |
| TCEQ Region: | REGION 09 - WACO |
| Date Compliance History Prepared: | March 03, 2005 |
| Agency Decision Requiring Compliance History: | Enforcement |
| Compliance Period: | March 01, 2000 to March 01, 2005 |

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

Name: Craig Fleming Phone: 239-5806

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

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

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 05/12/2004 (269539)

2 02/16/2005 (344409)
3 08/24/2001 (349357)

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

1. Date: 04/30/2004 (269539)
   Self Report? NO Classification: Moderate
   Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)[G]
   Description: Failure to establish a customer service inspection program.

   Self Report? NO Classification: Moderate
   Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(ii)
   Description: Failure to provide annual test results of backflow prevention assemblies.

   Self Report? NO Classification: Minor
   Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
   Description: Failure to screen the roof vent on the ground storage tank.

   Self Report? NO Classification: Minor
   Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]
   Description: Failure to conduct an inspection of the elevated storage tank.

   Self Report? NO Classification: Minor
   Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
   Description: Failure to provide a proper overflow for the ground storage and elevated storage tanks.

   Self Report? NO Classification: Minor
   Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)
   Description: Failure to provide adequate purchase water capacity.

   Self Report? NO Classification: Minor
   Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
   Description: Failure to maintain all related water system appurtenances in a watertight condition.

   Self Report? NO Classification: Moderate
   Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)
   30 TAC Chapter 290, SubChapter D 290.44(h)(4)[G]
   Description: Failure to establish and enforce a formal cross-connection control program.

   Self Report? NO Classification: Moderate
   Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
   Description: Failure to maintain all related water system appurtenances in a watertight condition.

2. Date: August 24, 2001 (349357)
   Self Reporting? NO
   Citation: 30 TAC Chapter 290.46(m)(4)
   Description: Failure to maintain all water storage facilities in a water tight condition.

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

**Attachment A**

**Docket Number 2005-0431-PWS-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | City of Mexia |
| **Penalty Amount:** | Seven Hundred Forty-Eight Dollars ($748) |
| **SEP Offset Amount:** | Seven Hundred Forty-Eight Dollars ($748) |
| **Type of SEP:** | Custom |
| **Location of SEP:** | Limestone County |

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

**1. Project Description**

A. Project

The Respondent shall repair or replace sanitary sewer service lines, cleanouts, and caps on private property in an environmental justice community (low income, minority homeowners) in the City of Mexia to reduce inflow and infiltration into the sanitary sewer collection system. Approximately 5 lines will be repaired or replaced as needed. The homeowners are low income and would not be able to afford the repairs themselves. The Respondent will not charge the homeowners for the costs of the SEP.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the amount of storm water and groundwater infiltration into the sanitary sewer system, reducing the potential for health threats and pollution caused by overflows of raw sewage into the environment. This project will also assist low income homeowners to reduce the potential for failure of their sanitary plumbing systems due to backup during periods of heavy rainfall or flooding.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of this project. The Respondent shall complete the project within 180 days after the effective date of this Agreed Order.

**3. Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of homes where the lines were repaired or replaced;
5. Map showing specific location of home sites;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**4. Additional Information and Access**

The Respondent shall provide any additional information required by TCEQ staff and allow access to all

records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

**5. Failure to Fully Perform**

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

With the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

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

**6. Publicity**

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

**7. Clean Texas Program**

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

**8. Other SEPs by TCEQ or Other Agencies**

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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | |
| **CITY OF MEXIA** | § | **TEXAS COMMISSION ON** |
| **PUBLIC WATER SUPPLY NO.** | § | |
| **1470004** | § | |
| **RN101399905** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2005-0431-PWS-E**

## I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Mexia ("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 800 South Belknap in Mexia, Limestone County, Texas (the "Facility") that has approximately 2750 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 February 21, 2005.

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 Nine Hundred Thirty-Five Dollars ($935) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Hundred Eighty-Seven Dollars ($187) 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. Seven Hundred Forty-Eight Dollars ($748) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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 meet this Agency's "Minimum Water System Capacity Requirements" for purchase capacity, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(4), as documented during an investigation conducted on January 3, 2005;

2. Failed to establish a formal cross-connection control program that is sufficient to ensure that the public water system is protected from possible contamination from actual or potential contamination hazards, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(B)(i) and 290.44(h)(4), as documented during an investigation conducted on January 3, 2005;

3. Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m), as documented during an investigation conducted on January 3, 2005; and

4. Failed to provide where an actual or potential contamination hazard exists additional protection at the meter in the form of an air gap or backflow prevention assembly, in violation of 30 TEX. ADMIN. CODE §§ 290.44(h)(1)(A) and 290.47(i), as documented during an investigation conducted on January 3, 2005.

## 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 Mexia, Docket No. 2005-0431-PWS-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 5 above, Seven Hundred Forty-Eight Dollars ($748) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall undertake the following technical requirements:

   a. Within 10 days after the effective date of the Agreed Order:

      i. Establish and begin enforcing a formal cross-connection control program for the system, as required by 30 TEX. ADMIN. CODE § 290.44(h)(1)(B)(i) and 290.44(h)(4);

      ii. Ensure that all water storage facilities, distribution system lines, and related appurtenances are maintained in a watertight condition, as required by 30 Tex. Admin. Code § 290.46(m). This shall include, but not be limited to the underground supply line to the ground storage tank; and

      iii. Install a backflow prevention assembly at the Blair-Stubbs Mortuary, as required by 30 Tex. Admin. Code §§ 290.44(h)(1)(A) and 290.47(i).

   b. Within 60 days after the effective date of this Agreed Order, finalize the contract to purchase an additional quantity of water so as to meet the systems capacity requirements, as required by 30 TEX. ADMIN. CODE § 290.45(f)(4); and

c. Within 75 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 Provisions 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

d. Submit all correspondence, reports, and documentation required by these Ordering Provisions to:

Work Leader
Team 5, Section III
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

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

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

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. 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.

7. 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.

8. 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.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

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

12/15/06
Date

Steve Brewer
Name (Printed or typed)
Authorized Representative of
City of Mexia

Mayor
Title

For the Executive Director

3/27/07
Date

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

**Attachment A**

**Docket Number 2005-0431-PWS-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

| | |
|---|---|
| **Respondent:** | City of Mexia |
| **Penalty Amount:** | Seven Hundred Forty-Eight Dollars ($748) |
| **SEP Offset Amount:** | Seven Hundred Forty-Eight Dollars ($748) |
| **Type of SEP:** | Custom |
| **Location of SEP:** | Limestone County |

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

**1. Project Description**

A. Project

The Respondent shall repair or replace sanitary sewer service lines, cleanouts, and caps on private property in an environmental justice community (low income, minority homeowners) in the City of Mexia to reduce inflow and infiltration into the sanitary sewer collection system. Approximately 5 lines will be repaired or replaced as needed. The homeowners are low income and would not be able to afford the repairs themselves. The Respondent will not charge the homeowners for the costs of the SEP.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the amount of storm water and groundwater infiltration into the sanitary sewer system, reducing the potential for health threats and pollution caused by overflows of raw sewage into the environment. This project will also assist low income homeowners to reduce the potential for failure of their sanitary plumbing systems due to backup during periods of heavy rainfall or flooding.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of this project. The Respondent shall complete the project within 180 days after the effective date of this Agreed Order.

**3. Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of homes where the lines were repaired or replaced;
5. Map showing specific location of home sites;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

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Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

**4. Additional Information and Access**

The Respondent shall provide any additional information required by TCEQ staff and allow access to all

records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

**5. Failure to Fully Perform**

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

With the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
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The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**6. Publicity**

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

**7. Clean Texas Program**

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

**8. Other SEPs by TCEQ or Other Agencies**

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