

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1506-PWS-E **TCEQ ID:** RN101387850 **CASE NO.:** 26708
RESPONDENT NAME: City of Winters

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: City of Winters Public Water Supply, 701 Wood Street, Winters, Runnels County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ___ Yes 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 12, 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

Central Office Investigator: Ms. Nicole Brannon, Water Supply Division, Public Drinking Water Section, MC 155, (512) 239-1626

Respondent: The Honorable Nelan Bahlman, Mayor, City of Winters, 310 South Main Street, Winters, Texas 79576-5718

Mr. Aref Hassan, Ph.D., City Manager, City of Winters, 310 South Main Street, Winters, Texas 79576-5718

Respondent's Attorney: Not represented by counsel on this enforcement matter

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2007 MAY 22 PM 4:53
CHIEF CLERKS OFFICE

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 of Complaint Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: May 2 and July 18, 2005</p> <p>Dates of NOEs Relating to this Case: June 30 and August 4, 2005 (NOE)</p> <p>Background Facts: These were routine investigations. Twelve violations were documented.</p> <p>WATER</p> <p>1) Failed to maintain a chloramine residual of 0.5 milligrams per liter (mg/L) (measured as total chlorine for systems that feed ammonia) in each finished water tank and throughout the distribution system at all times [30 TEX. ADMIN. CODE § 290.46(d)(2)(B)].</p> <p>2) Failed to post a legible sign at each of its production, treatment, and storage facilities that is located in plain view of the public that provides the name of the water supply and an emergency telephone number where a responsible official can be contacted [30 TEX. ADMIN. CODE § 290.46(t)].</p> <p>3) Failed to provide containment facilities for a single container or for multiple interconnected containers that are large enough to hold the maximum amount of chemicals that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less [30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)(I)].</p> <p>4) Failed to provide a standby or reserve unit for each chemical feeder [30 TEX. ADMIN. CODE § 290.42(f)(2)(A)].</p>	<p>Total Assessed: \$9,016</p> <p>Total Deferred: \$1,803 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,213</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <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>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit documentation that provides evidence that the residual disinfectant concentration of at least 0.5 mg/L is being maintained throughout the distribution system;</p> <p>ii. Submit documentation that demonstrates that a legible sign at each of its production, treatment, and storage facilities is located in plain view of the public and provide the name of the water supply and an emergency telephone number where a responsible official can be contacted;</p> <p>iii. Submit documentation that demonstrates that containment facilities have been provided for a single container or for multiple interconnected containers that are large enough to hold the maximum amount of chemicals that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less;</p> <p>iv. Submit documentation that demonstrates that a standby or reserve unit is available for each chemical feeder;</p> <p>v. Submit documentation that demonstrates that the City has begun to monitor disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone at least once each day during a time when peak hourly raw water flow rates are occurring;</p> <p>vi. Submit documentation that demonstrates the City is conducting the disinfectant residual tests at least once per day at representative locations in the distribution system;</p>

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5) Failed to provide a sanitary control easement covering land within 150 feet of the well, or executive director approval for an authorized substitute [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>6) Failed to monitor disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone at least once each day during a time when peak hourly raw water flow rates are occurring, and to monitor the disinfectant residual tests at least once per day at representative locations in the distribution system [30 TEX. ADMIN. CODE §§ 290.110(c)(1)(A), 290.110(c)(5)(C), and 290.46(f)(3)(B)(iii)].</p> <p>7) Failed to have a class "C" or higher surface water operator on duty at the plant when it is in operation or the plant must be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the commission's water standards during periods when the plant is not staffed [30 TEX. ADMIN. CODE § 290.46(e)(6)(C)].</p> <p>8) Failed to calibrate flow measuring devices and rate-of-flow controllers at least once every 12 months [30 TEX. ADMIN. CODE § 290.46(s)(1)].</p> <p>9) Failed to calibrate the following laboratory equipment used for compliance testing: 1) pH meters, 2) turbidimeters, and 3) disinfectant residual analyzers, and to maintain the calibration records for a period of at least three years [30 TEX. ADMIN. CODE § 290.46(f)(3)(B)(v) and 290.46(s)(2)(A), (B), and (C)].</p> <p>10) Failed to properly complete and submit periodic reports [30 TEX. ADMIN. CODE § 290.112(e)].</p> <p>11) Failed to conduct annual inspections of the system's ground, elevated, and pressure tanks by water system personnel or a contracted inspection service [30 TEX. ADMIN. CODE § 290.46(m)(1)(A) and (C)].</p> <p>12) Failed to provide additional protection at the meter in the form of an air gap or backflow prevention assembly where an actual or potential contamination hazard exists [30 TEX. ADMIN. CODE § 290.44(h)(1)(A) and 290.44(h)(4)].</p>		<p>vii. Establish and implement a process whereby the flow measuring devices are calibrated at least once every 12 months;</p> <p>viii. Establish and implement a process whereby the laboratory equipment used for compliance testing are calibrated, and maintain the calibration records for a period of at least three years;</p> <p>ix. Establish and implement a process to complete and submit periodic reports;</p> <p>x. Perform an annual inspection and submit a copy of the annual water tank inspection report; and</p> <p>xi. Ensure that an air gap or backflow prevention assembly has been installed at the Runnels County Hospital, and tested upon installation by a qualified backflow prevention assembly tester.</p> <p>b. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Employ sufficient class "C" or higher surface water operators to ensure one is on duty when the plant is in operation, or</p> <p>ii. Install continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators.</p> <p>c. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Secure a sanitary easement covering all property within 150 feet of the well locations from adjacent landowners and record the deeds at the county courthouse, as required by 30 TEX. ADMIN. CODE § 290.41; or</p> <p>ii. Obtain an exception to 30 TEX. ADMIN. CODE § 290.41(c)(1).</p> <p>d. Within 105 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 2.a. through 2.c.</p>

Attachment A
Docket Number: 2005-1506-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Winters
Penalty Amount: Seven Thousand Two Hundred Thirteen Dollars (\$7,213)
SEP Offset Amount: Seven Thousand Two Hundred Thirteen Dollars (\$7,213)
Type of SEP: Custom
Location of SEP: Runnels 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 demolish and properly dispose of an asbestos-containing unsafe structure that is in danger of imminent collapse and that has been deemed by the Respondent to be an unsafe structure, and remove illegally dumped batteries and solid waste from the property. The property is located at 216 N. Melwood near residences and a church, where young children frequently play.

The Respondent has performed an asbestos survey of the structure using a licensed Individual Asbestos Consultant. The consultant collected samples of suspected asbestos containing building materials (ACBMs). The following materials tested positive for asbestos:

- Cement shingles, approximately 800 sq. ft.;
- Drywall Gypsum Wallboard (DGWD), approximately 2,700 sq. ft.; and
- Window Glazing, approximately 300 linear feet.

The majority of these materials are located in or on portions of the structure that appear to be in danger of imminent collapse or are unsafe to enter.

To ensure that the asbestos removal will comply with state and federal regulations, prior to demolition activities, ACBMs in the areas to be disturbed will be abated by a qualified asbestos contractor under monitoring and supervision of a qualified asbestos consultant.

The Respondent will place a deed restriction on the property to preserve it in perpetuity as a public park.

The Respondent shall perform all aspects of this project in accordance with all federal, state and local environmental laws and regulations. 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

Asbestos Abatement. Exposure to asbestos may increase the risk of lung cancer, a malignant tumor that invades and obstructs the lung's air passages, mesothelioma, a rare cancer which may affect the lining of the lungs or the abdominal contents; and asbestosis, a serious, progressive, long-term disease of the lungs that can be fatal.

This SEP will provide a discernible environmental benefit by resulting in the proper removal and disposal of asbestos-containing materials from the structure by a certified contractor, decreasing exposure of children to the inhalation of asbestos fibers that can cause lung cancer, asbestosis, and mesothelioma.

Illegal Dump Clean Up. This portion of the project will provide a discernible environmental benefit by removing illegally dumped materials such as batteries and bulky waste items, which may leak and cause pollution of the ground and surface waters. The removal and proper disposal of this waste material will provide a clean and safe environment for wildlife as well as the residents of the City, and reduce the potential health threats from disease vectors such as snakes and rats, and from mosquitoes that can carry West Nile Virus.

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 the project. The Respondent shall complete the project within 120 days after the effective date of this Agreed Order, and follow up with a final report to TCEQ within 30 days of the completion of the project by submitting a final report as required in Section 3.B., below.

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:

City of Winters

Agreed Order Docket No. 2005-1506-PWS-E-Attachment A

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached, including verification of proper labeling and disposal of asbestos-containing materials and asbestos disposal compliance forms;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Amount of waste removed from the site;
5. Photographs of the project; and
6. 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.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision May 19, 2005



DATES	Assigned	08-Aug-2005	Screening	16-Aug-2005	EPA Due	
	PCW	11-Oct-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Winters
Reg. Ent. Ref. No.	RN101387850
Facility/Site Region	3-Abilene < Major/Minor Source Major Source <

CASE INFORMATION			
Enf./Case ID No.	26708	No. of Violations	10
Docket No.	2005-1506-PWS-E	Order Type	1660 <
Media Program(s)	Public Water Supply <	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	Enforcement Team 4 <
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 12% Enhancement **Subtotals 2, 3, & 7**

Notes

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

Notes

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

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

Notes

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

Total EB Amounts	<input type="text" value="\$1,904"/>	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	<input type="text" value="\$5,000"/>	

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL 20% Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 16-Aug-2005 **Docket No.** 2005-1506-PWS-E **PCW**
Respondent City of Winters *Policy Revision 2 (September 2002)*
Case ID No. 26708 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387850
Media [Statute] Public Water Supply
Enf. Coordinator J. Craig Fleming

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 (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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%

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 12%

>> **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 penalty was enhanced because the respondent received two similar written NOVs, and one non-similar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 16-Aug-2005

Docket No. 2005-1506-PWS-E

PCW

Respondent City of Winters

Policy Revision 2 (September 2002)

Case ID No. 26708

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101387850

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description
 Failure to maintain a chloramine residual of 0.5 milligrams per liter (mg/L) (measured as total chlorine for systems that feed ammonia) in each finished water tank and throughout the distribution system at all times. Specifically, the total chlorine level was: 0.00 mg/L at 1001 North Main, 0.04 mg/L at 800 Parsonage, 0.11 mg/L at 1109 West Street, and 0.04 mg/L at Winters Inn.

Base Penalty

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

		Harm				
Release		Major	Moderate	Minor		
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="50%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small 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="checkbox"/>

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 Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
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	18-Jul-2005	01-May-2006	0.8	\$4	n/a	\$4

Notes for DELAYED costs: Estimated cost to adjust the chlorination equipment. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
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 TOTAL

Screening Date 16-Aug-2005 **Docket No.** 2005-1506-PWS-E **PCW**
Respondent City of Winters *Policy Revision 2 (September 2002)*
Case ID No. 26708 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387850
Media [Statute] Public Water Supply
Enf. Coordinator J. Craig Fleming
Violation Number

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.42(f)(1)(E)(ii)(I), 290.42(f)(2)(A) and 290.46(t)
Secondary Rule Cite(s)

Violation Description
 Failure to: 1) post a legible sign at each of its production, treatment, and storage facilities that is located in plain view of the public that provides the name of the water supply and an emergency telephone number where a responsible official can be contacted, 2) provide containment facilities for a single container or for multiple interconnected containers that are large enough to hold the maximum amount of chemicals that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less, and 3) provide a standby or reserve unit for each chemical feeder. Specifically, the Respondent did not have emergency signs displayed at the raw water intake structure, the bulk liquid ammonium sulfate (LAS) tank was not equipped with spill containment facilities, and standby chemical feed equipment was not provided for chlorine and LAS chemicals at the surface water treatment plant.

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes
 Not posting an emergency sign at the facility, having adequate containment facilities for the LAS tank, nor providing a standby or reserve unit for each chemical feeder 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

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended based on the investigation date of May 2, 2005 to the screening date of August 16, 2005.

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 Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
Delayed Costs							
Equipment	\$500	02-May-2005	01-May-2006	1.0	\$2	\$33	\$35
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$250	02-May-2005	01-May-2006	1.0	\$1	\$17	\$17
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	02-May-2005	01-May-2006	1.0	\$5	n/a	\$5

Notes for DELAYED costs
 Estimated cost to construct and place signs, provide adequate containment facilities for all liquid storage tanks, and provide standby chemical feed equipment. 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 **\$850** **TOTAL** **\$57**

Screening Date 16-Aug-2005 **Docket No.** 2005-1506-PWS-E **PCW**
Respondent City of Winters *Policy Revision 2 (September 2002)*
Case ID No. 26708 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387850
Media [Statute] Public Water Supply
Enf. Coordinator J. Craig Fleming
Violation Number 3
Primary Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)
Secondary Rule Cite(s)
Violation Description
 Failure to provide a sanitary control easement covering land within 150 feet of the well, or executive director approval for an authorized substitute. Specifically, a sanitary easement was not made available for the groundwater wells.
Base Penalty \$1,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 10%
	Potential			X	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes
 Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

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

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$112

This violation Final Assessed Penalty (adjusted for limits) \$112

Economic Benefit Worksheet

Respondent City of Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	02-May-2005	01-Jul-2006	1.2	\$0	\$8	\$8
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 obtain signatures of property owners within 150 foot radius of the sells. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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 TOTAL

Screening Date 16-Aug-2005 **Docket No.** 2005-1506-PWS-E **PCW**
Respondent City of Winters *Policy Revision 2 (September 2002)*
Case ID No. 26708 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387850
Media [Statute] Public Water Supply
Enf. Coordinator J. Craig Fleming
Violation Number 4
Primary Rule Cite(s) 30 Tex. Admin. Code § 290.110(c)(1)(A) and (c)(5)(C)
Secondary Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(B)(iii)

Violation Description
 Failure to monitor disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone at least once each day during a time when peak hourly raw water flow rates are occurring, and to monitor the disinfectant residual tests at least once per day at representative locations in the distribution system. Specifically, disinfection residuals for combined filter effluent (Zone 2) were routinely monitored at the filter discharge from one of the six filters in lieu of the combined filter effluent from all six filters, and the distribution system had not been monitored for at least six months.

Base Penalty \$1,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 10%
	Potential			X	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				Percent

Matrix Notes
 Failure to monitor disinfectant residual, pH, temperature, and flow rate of the water and not conducting disinfectant monitoring will or could expose human health or the environment to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

<i>mark only one use a small x</i>	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

Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$112

This violation Final Assessed Penalty (adjusted for limits) \$112

Economic Benefit Worksheet

Respondent City of Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
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	\$500	02-May-2005	01-May-2006	1.0	\$25	n/a	\$25
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	02-May-2005	01-May-2006	1.0	\$5	n/a	\$5

Notes for DELAYED costs: Estimated cost to establish a system whereby the distribution system disinfectant residual is sampled and monitor the filter discharges. 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 **\$600** TOTAL **\$30**

Screening Date 16-Aug-2005

Docket No. 2005-1506-PWS-E

PCW

Respondent City of Winters

Policy Revision 2 (September 2002)

Case ID No. 26708

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101387850

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to have a class "C" or higher surface water operator on duty at the plant when it is in operation or the plant must be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the commission's water standards during periods when the plant is not staffed. Specifically, it was noted that the plant was not equipped with a functional continuous turbidity and disinfectant monitoring system with automatic plant shutdown capability.

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Having a malfunctioning alarm system could allow a significant amount of pollutants to enter the system which would exceed levels that are protective of human health.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Four monthly events are recommended based on the investigation date of May 2, 2005 to the screening date of August 16, 2005.

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 Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
Delayed Costs							
Equipment	\$500	02-May-2005	01-Jun-2006	1.1	\$2	\$36	\$38
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 repair or replace the malfunctioning alarm 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

TOTAL

Screening Date 16-Aug-2005

Docket No. 2005-1506-PWS-E

PCW

Respondent City of Winters

Policy Revision 2 (September 2002)

Case ID No. 26708

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101387850

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

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 Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	02-May-2005	01-May-2006	1.0	\$2	\$33	\$35
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 provide standby chemical feed equipment. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
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 **\$500** **TOTAL \$35**

Screening Date 16-Aug-2005 **Docket No.** 2005-1506-PWS-E **PCW**
Respondent City of Winters *Policy Revision 2 (September 2002)*
Case ID No. 26708 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387850
Media [Statute] Public Water Supply
Enf. Coordinator J. Craig Fleming
Violation Number 7

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(f)(3)(B)(v) and 290.46(s)(2)(A), (B), and (C)
Secondary Rule Cite(s)
Violation Description Failure to calibrate the following laboratory equipment used for compliance testing: 1) pH meters, 2) turbidimeters, and 3) disinfectant residual analyzers, and to maintain the calibration records for a period of at least three years. Specifically, calibration activities were not conducted on the laboratory equipment used for compliance testing at the surface water plant.

Base Penalty \$1,000

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

Harm

Release	Major	Moderate	Minor
Actual			
Potential	X		

Percent 50%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes Failure to use the properly calibrated testing equipment could result in partially treated or untreated water being distributed to the public.

Adjustment -\$500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 2

mark only one use a small x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

Two quarterly events are recommended from the date of the investigation on May 2, 2005 to the screening date of August 16, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$35

Violation Final Penalty Total \$1,120

This violation Final Assessed Penalty (adjusted for limits) \$1,120

Economic Benefit Worksheet

Respondent City of Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	02-May-2005	01-May-2006	1.0	\$2	\$33	\$35
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 calibrate the laboratory equipment used for compliance testing at the surface water plant. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
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

TOTAL

Screening Date 16-Aug-2005 **Docket No.** 2005-1506-PWS-E **PCW**
Respondent City of Winters *Policy Revision 2 (September 2002)*
Case ID No. 26708 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387850
Media [Statute] Public Water Supply
Enf. Coordinator J. Craig Fleming
Violation Number 8
Primary Rule Cite(s) 30 Tex. Admin. Code § 290.112(e)
Secondary Rule Cite(s)
Violation Description Failure to properly complete and submit periodic reports. Specifically, the water system had not completed and submitted monthly operational reports for Total Organic Carbon ("TOC").
Base Penalty \$1,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$750
Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 4

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

Violation Base Penalty \$1,000

Four monthly events are recommended from the investigation date of May 2, 2005 to the screening date of August 16, 2005.

Economic Benefit (EB) for this violation

Estimated EB Amount \$105

Statutory Limit Test

Violation Final Penalty Total \$1,120

This violation Final Assessed Penalty (adjusted for limits) \$1,120

Economic Benefit Worksheet

Respondent City of Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
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

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	02-May-2005	01-May-2006	1.0	\$5	\$100	\$105
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

Estimated cost to prepare and submit TOC reports. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Approx. Cost of Compliance

TOTAL

Screening Date 16-Aug-2005 **Docket No.** 2005-1506-PWS-E **PCW**
Respondent City of Winters *Policy Revision 2 (September 2002)*
Case ID No. 26708 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387850
Media [Statute] Public Water Supply
Enf. Coordinator J. Craig Fleming
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description
Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="checkbox"/>
	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 Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] 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
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

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)	\$1,500	02-May-2004	02-May-2005	1.0	\$75	\$1,500	\$1,575

Notes for AVOIDED costs

Estimated cost to conduct inspections of the system's storage tanks.

Approx. Cost of Compliance **\$1,500**

TOTAL \$1,575

Screening Date 16-Aug-2005

Docket No. 2005-1506-PWS-E

PCW

Respondent City of Winters

Policy Revision 2 (September 2002)

Case ID No. 26708

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101387850

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 10

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

Secondary Rule Cite(s)

Violation Description

Failure to provide additional protection at the meter in the form of an air gap or backflow prevention assembly where an actual or potential contamination hazard exists. Specifically, there was no check valve backflow prevention assembly or an air gap at the Runnels County Hospital as required by 30 TAC § 290.47 Appendix (I).

Base Penalty \$1,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 50%
	Potential	X			

>> **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 which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 4

<i>mark only one use a small x</i>	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Four monthly events are recommended from the investigation date of May 2, 2005 to the screening date of August 16, 2005

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$2,240

This violation Final Assessed Penalty (adjusted for limits) \$2,240

Economic Benefit Worksheet

Respondent City of Winters
 Case ID No. 26708
 Reg. Ent. Reference No. RN101387850
 Media [Statute] Public Water Supply
 Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	\$250	02-May-2005	01-May-2006	1.0	\$1	\$17	\$17
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 \$17

Compliance History

Customer/Respondent/Owner-Operator: CN600247472 City of Winters Classification: AVERAGE Rating: 2.630
Regulated Entity: RN101387850 CITY OF WINTERS Classification: Site Rating: 0.00
ID Number(s): WATER LICENSING LICENSE 2000003
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2000003
Location: 701 WOOD ST, WINTERS, TX, 79567
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: October 12, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 12, 2000 to October 12, 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
6. Comments:

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.)

2 12/17/2003 (257946)
4 07/06/2005 (398845)
6 11/15/2004 (341180)
8 09/09/2003 (248158)
10 02/27/2003 (25758)
12 05/26/2005 (393181)

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

1. Date: 12/18/2003 (257946)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(i)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(ii)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(iii)

30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)[G]
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)
Description: Failure to calibrate laboratory equipment.

2. Date: 02/26/2003 (25758)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)

Description: FAILURE TO PROVIDE A FLOW MEASURING DEVICE FOR THE RECYCLED/DECANT WATER SYSTEM.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)

Description: FAILURE TO PROVIDE A 200' RESTRICTED ZONE SIGN FOR THE RAW WATER INTAKE WORKS.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: FAILURE TO PROVIDE A LOCKS FOR THE HOUSED WELLS 1 THROUGH 9.

3. Date: 11/16/2004 (341180)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: FAILURE TO TEST ANNUALLY NORTH RUNNELS COUNTY HOSPITAL, WINTERS FUNERAL HOME, WINTERS FAMILY MEDICAL CLINIC, AND ALDERMAN CAVE.

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 WINTERS
RN101387850**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2005-1506-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 Winters ("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 701 Wood Street in Winters, Runnels County, Texas (the "Facility") that has approximately 1300 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 July 5, and August 9, 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 Thousand Sixteen Dollars (\$9,016) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Eight Hundred Three Dollars (\$1,803) 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 Thousand Two Hundred Thirteen Dollars (\$7,213) 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 maintain a chloramine residual of 0.5 milligrams per liter (mg/L) (measured as total chlorine for systems that feed ammonia) in each finished water tank and throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE § 290.46(d)(2)(B), as documented during an investigation conducted on July 18, 2005.
2. Failed to post a legible sign at each of its production, treatment, and storage facilities that is located in plain view of the public that provides the name of the water supply and an emergency telephone number where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t), as documented during an investigation conducted on July 18, 2005.
3. Failed to provide containment facilities for a single container or for multiple interconnected containers that are large enough to hold the maximum amount of chemicals that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)(I), as documented during an investigation conducted on July 18, 2005.
4. Failed to provide a standby or reserve unit for each chemical feeder, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(2)(A), as documented during an investigation conducted on July 18, 2005.
5. Failed to provide a sanitary control easement covering land within 150 feet of the well, or executive director approval for an authorized substitute, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on May 2, 2005.

6. Failed to monitor disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone at least once each day during a time when peak hourly raw water flow rates are occurring, and to monitor the disinfectant residual tests at least once per day at representative locations in the distribution system, in violation of 30 TEX. ADMIN. CODE §§ 290.110(c)(1)(A), 290.110(c)(5)(C), and 290.46(f)(3)(B)(iii), as documented during an investigation conducted on May 2, 2005.
7. Failed to have a class "C" or higher surface water operator on duty at the plant when it is in operation or the plant must be provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the commission's water standards during periods when the plant is not staffed, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(6)(C), as documented during an investigation conducted on May 2, 2005.
8. Failed to calibrate flow measuring devices and rate-of-flow controllers at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1), as documented during an investigation conducted on May 2, 2005.
9. Failed to calibrate the following laboratory equipment used for compliance testing: 1) pH meters, 2) turbidimeters, and 3) disinfectant residual analyzers, and to maintain the calibration records for a period of at least three years, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(B)(v) and 290.46(s)(2)(A), (B), and (C), as documented during an investigation conducted on May 2, 2005.
10. Failed to properly complete and submit periodic reports, in violation of 30 TEX. ADMIN. CODE § 290.112(e), as documented during an investigation conducted on May 2, 2005.
11. Failed to conduct annual inspections of the system's ground, elevated, and pressure tanks by water system personnel or a contracted inspection service, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A) and (C), as documented during an investigation conducted on May 2, 2005.
12. Failed to provide additional protection at the meter in the form of an air gap or backflow prevention assembly where an actual or potential contamination hazard exists, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A) and 290.44(h)(4), as documented during an investigation conducted on May 2, 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 Winters, Docket No. 2005-1506-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 Thousand Two Hundred Thirteen Dollars (\$7,213) 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 30 days after the effective date of this Agreed Order:
 - i. Submit documentation that provides evidence that the residual disinfectant concentration of at least 0.5 milligrams per liter ("mg/L") is being maintained throughout the distribution system, as required by 30 TEX. ADMIN. CODE § 290.46;
 - ii. Submit documentation that demonstrates that a legible sign at each of its production, treatment, and storage facilities is located in plain view of the public that provides the name of the water supply and an emergency telephone number where a responsible official can be contacted, as required by 30 TEX. ADMIN. CODE § 290.46;
 - iii. Submit documentation that demonstrates that containment facilities have been provided for a single container or for multiple interconnected containers that are large enough to hold the maximum amount of chemicals that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less, as required by 30 TEX. ADMIN. CODE § 290.42;
 - iv. Submit documentation that demonstrates that a standby or reserve unit is available for each chemical feeder, as required by 30 TEX. ADMIN. CODE § 290.42;
 - v. Submit documentation that demonstrates that the City has begun to monitor disinfectant residual, pH, temperature, and flow rate of the water in each disinfection zone at least once each day during a time when peak hourly raw water flow rates are occurring, as required by 30 TEX. ADMIN. CODE § 290.110;

- vi. Submit documentation that demonstrates the City is conducting the disinfectant residual tests at least once per day at representative locations in the distribution system, as required by 30 TEX. ADMIN. CODE § 290.110;
 - vii. Establish and implement a process whereby the flow measuring devices are calibrated at least once every 12 months, as required by 30 TEX. ADMIN. CODE § 290.46;
 - viii. Establish and implement a process whereby the laboratory equipment used for compliance testing are calibrated, and maintain the calibration records for a period of at least three years, as required by 30 TEX. ADMIN. CODE § 290.46;
 - ix. Establish and implement a process to complete and submit periodic reports, as required by 30 TEX. ADMIN. CODE § 290.112;
 - x. Perform an annual inspection and submit a copy of the annual water tank inspection report, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - xi. Ensure that an air gap or backflow prevention assembly has been installed at the Runnels County Hospital, and tested upon installation by a qualified backflow prevention assembly tester, as required by 30 TEX. ADMIN. CODE § 290.44.
- b. Within 60 days after the effective date of this Agreed Order:
- i. Employ sufficient class "C" or higher surface water operators to ensure one is on duty when the plant is in operation, or
 - ii. Install continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators, as required by 30 TEX. ADMIN. CODE § 290.46.
- c. Within 90 days after the effective date of this Agreed Order:
- i. Secure a sanitary easement covering all property within 150 feet of the well locations from adjacent landowners and record the deeds at the county courthouse, as required by 30 TEX. ADMIN. CODE § 290.41; or
 - ii. Obtain an exception to 30 TEX. ADMIN. CODE § 290.41(c)(1), as required by 30 TEX. ADMIN. CODE § 290.39.
- 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 3.a. through 3.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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Manager Water Section
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

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



For the Executive Director

4/3/07

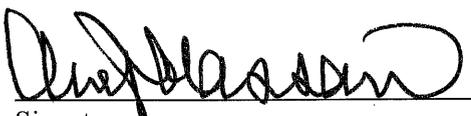
Date

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.



Signature

12-02-06

Date

AREF HASSAN, Ph.D.

Name (Printed or typed)
Authorized Representative of
City of Winters

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.

Attachment A
Docket Number: 2005-1506-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Winters
Penalty Amount: Seven Thousand Two Hundred Thirteen Dollars (\$7,213)
SEP Offset Amount: Seven Thousand Two Hundred Thirteen Dollars (\$7,213)
Type of SEP: Custom
Location of SEP: Runnels 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 demolish and properly dispose of an asbestos-containing unsafe structure that is in danger of imminent collapse and that has been deemed by the Respondent to be an unsafe structure, and remove illegally dumped batteries and solid waste from the property. The property is located at 216 N. Melwood near residences and a church, where young children frequently play.

The Respondent has performed an asbestos survey of the structure using a licensed Individual Asbestos Consultant. The consultant collected samples of suspected asbestos containing building materials (ACBMs). The following materials tested positive for asbestos:

- Cement shingles, approximately 800 sq. ft.;
- Drywall Gypsum Wallboard (DGWD), approximately 2,700 sq. ft.; and
- Window Glazing, approximately 300 linear feet.

The majority of these materials are located in or on portions of the structure that appear to be in danger of imminent collapse or are unsafe to enter.

To ensure that the asbestos removal will comply with state and federal regulations, prior to demolition activities, ACBMs in the areas to be disturbed will be abated by a qualified asbestos contractor under monitoring and supervision of a qualified asbestos consultant.

The Respondent will place a deed restriction on the property to preserve it in perpetuity as a public park.

The Respondent shall perform all aspects of this project in accordance with all federal, state and local environmental laws and regulations. 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

Asbestos Abatement. Exposure to asbestos may increase the risk of lung cancer, a malignant tumor that invades and obstructs the lung's air passages, mesothelioma, a rare cancer which may affect the lining of the lungs or the abdominal contents; and asbestosis, a serious, progressive, long-term disease of the lungs that can be fatal.

This SEP will provide a discernible environmental benefit by resulting in the proper removal and disposal of asbestos-containing materials from the structure by a certified contractor, decreasing exposure of children to the inhalation of asbestos fibers that can cause lung cancer, asbestosis, and mesothelioma.

Illegal Dump Clean Up. This portion of the project will provide a discernible environmental benefit by removing illegally dumped materials such as batteries and bulky waste items, which may leak and cause pollution of the ground and surface waters. The removal and proper disposal of this waste material will provide a clean and safe environment for wildlife as well as the residents of the City, and reduce the potential health threats from disease vectors such as snakes and rats, and from mosquitoes that can carry West Nile Virus.

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 the project. The Respondent shall complete the project within 120 days after the effective date of this Agreed Order, and follow up with a final report to TCEQ within 30 days of the completion of the project by submitting a final report as required in Section 3.B., below.

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, including verification of proper labeling and disposal of asbestos-containing materials and asbestos disposal compliance forms;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Amount of waste removed from the site;
5. Photographs of the project; and
6. 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.