

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1888-PWS-E **TCEQ ID:** RN101250843 **CASE NO.:** 31563
RESPONDENT NAME: City of Tehuacana

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 Tehuacana, 205 South Railroad Street, Tehuacana, Limestone County

TYPE OF OPERATION: Public water system

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 April 30, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Amy Martin, Enforcement Division, Enforcement Section 1, MC 169, (512) 239-2540; Mr. Steven Lopez, Enforcement Division, Enforcement Section I, (512) 239-1896

Respondent: The Honorable Herman D. East, Jr., Mayor, City of Tehuacana, P.O. Box 67, Tehuacana, Texas 76686

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

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 Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 19, 2006</p> <p>Date of NOE Relating to this Case: October 12, 2006 (NOE)</p> <p>Background Facts: This was a routine scheduled investigation for compliance with the drinking water program. Five significant program violations were observed.</p> <p>WATER</p> <p>1) Failure to meet the Commission's "Minimum Water System Capacity Requirements" for purchase capacity [30 TEX. ADMIN. CODE § 290.45(f)(4)].</p> <p>2) Failure to provide a water system operating record at the time of the investigation. Specifically, the facility did not have the American National Standards Institute/National Sanitation Foundation Standard 60 Certification for the calcium hypochlorite disinfectant [30 TEX. ADMIN. CODE § 290.46(f)(2)].</p> <p>3) Failure to inspect the interior surface of the pressure tank every five years [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].</p> <p>4) Failure to provide disinfection equipment to maintain the required minimum disinfectant residual [30 TEX. ADMIN. CODE § 290.42(e)(3)].</p> <p>5) Failure to plug abandoned wells or have them tested every five years to demonstrate that they are in a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u)].</p>	<p>Total Assessed: \$1,400</p> <p>Total Deferred: \$280 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,120</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 type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin maintaining all required water system operating records;</p> <p>ii. Commence conducting and recording results of the pressure tank inspection; and</p> <p>iii. Install and operate facilities to maintain an adequate disinfectant residual throughout the distribution system.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written documentation, as detailed in Ordering Provision d. below, that certifies compliance with Ordering Provision a.i. through a.iii.</p> <p>c) Within 60 days after the effective date of this Agreed Order:</p> <p>i. Secure an additional amount of water so as to meet the system's capacity requirements; and</p> <p>ii. Plug and seal wells, or test wells Nos. 1 and 2 to prove that each is in a non-deteriorated condition.</p> <p>d) 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 c.i. and c.ii.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	16-Oct-2006	Screening	26-Oct-2006	EPA Due	
	PCW	26-Oct-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Tehuacana
Reg. Ent. Ref. No.	RN101250843
Facility/Site Region	9-Waco <
Major/Minor Source	Minor Source <

CASE INFORMATION			
Enf./Case ID No.	31563	No. of Violations	5
Docket No.	2006-1888-PWS-E	Order Type	1660 <
Media Program(s)	Public Water Supply <	Enf. Coordinator	Amy Martin
Multi-Media		EC's Team	Enforcement Team 2 <
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement Subtotals 2, 3, & 7

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	\$584	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,350	

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 26 Oct 2006 **Docket No.** 2006-1888-PWS-E **PCW**
Respondent City of Tehuacana *Policy Revision 2 (September 2002)*
Case ID No. 31563 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101250843
Media [Statute] Public Water Supply
Enf. Coordinator Amy Martin

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>	0	0%
	Other written NOVs	0	0%
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 <i>(number of events)</i>	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

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

N/A <

Adjustment Percentage (Subtotal 3) 0%

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

N/A <

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes The Respondent has not been issued any Notices of Violations (NOVs) within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 26-Oct-2006

Docket No. 2006-1888-PWS-E

PCW

Respondent City of Tehuacana

Policy Revision 2 (September 2002)

Case ID No. 31563

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101250843

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

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 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	<input type="text" value="Without sufficient capacity, customers of the water supply could experience water shortages and the system's ability to provide a safe and adequate supply of water to the customers could be impaired."/>					

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

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 Tehuacana
 Case ID No. 31563
 Reg. Ent. Reference No. RN101250843
 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)	\$150	19-Sep-2006	01-Jul-2007	0.8	\$6	n/a	\$6

Notes for DELAYED costs: Estimated cost to increase the facility's purchased water capacity. The Date Required is the date of the investigation. The Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance TOTAL

Screening Date 26-Oct-2006

Docket No. 2006-1888-PWS-E

PCW

Respondent City of Tehuacana

Policy Revision 2 (September 2002)

Case ID No. 31563

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101250843

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

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"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1%"/>

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 Tehuacana
 Case ID No. 31563
 Reg. Ent. Reference No. RN101250843
 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	Overtime 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	\$100	19-Sep-2006	01-Jun-2007	0.7	\$3	n/a	\$3
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 maintain records. The Date Required is the date of the investigation. The Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 26-Oct-2006

Docket No. 2006-1888-PWS-E

PCW

Respondent City of Tehuacana

Policy Revision 2 (September 2002)

Case ID No. 31563

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101250843

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

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 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	<input type="text" value="Failure to inspect and maintain the pressure tank could result in the interruption of service and/or the exposure of a significant amount of contaminants to the customers of the water supply which may exceed levels that are protective of human health and the environment."/>					

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 Tehuacana
 Case ID No. 31563
 Reg. Ent. Reference No. RN101250843
 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)				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	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	22-Aug-2004	01-Jun-2007	2.8	\$14	\$278	\$291
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 Avoided Cost to inspect the pressure tank. The date required is the inspection due date and the final date is the estimated date of compliance.

Approx. Cost of Compliance **\$100**

TOTAL \$291

Screening Date 26-Oct-2006

Docket No. 2006-1888-PWS-E

PCW

Respondent City of Tehuacana

Policy Revision 2 (September 2002)

Case ID No. 31563

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101250843

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.42(e)(3)

Secondary Rule Cite(s)

Violation Description Failure to provide disinfection equipment to maintain the required minimum disinfectant residual. Specifically, at the time of the investigation, the facility was not equipped with any disinfection equipment.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Failure to provide disinfection equipment could result in the exposure of a significant amount of contaminants to the customers of the water supply which may exceed levels that are protective of human health and the environment.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$500

Two monthly events are recommended from the investigation date of September 19, 2006 to the screening date of October 26, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$245

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent City of Tehuacana
 Case ID No. 31563
 Reg. Ent. Reference No. RN101250843
 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	\$5,000	19-Sep-2006	01-Jun-2007	0.7	\$12	\$233	\$245
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 disinfection equipment. The Date Required is the date of the investigation. The Final Date is the estimated date of compliance.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)
Disposal	\$0
Personnel	\$0
Inspection/Reporting/Sampling	\$0
Supplies/equipment	\$0
Financial Assurance [2]	\$0
ONE-TIME avoided costs [3]	\$0
Other (as needed)	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance TOTAL

Screening Date 26-Oct-2006

Docket No. 2006-1888-PWS-E

PCW

Respondent City of Tehuacana

Policy Revision 2 (September 2002)

Case ID No. 31563

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101250843

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	daily	<input type="text"/>
	monthly	<input type="text"/>
mark only one	quarterly	<input type="text"/>
use a small x	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 Tehuacana
 Case ID No. 31563
 Reg. Ent. Reference No. RN101250843
 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				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)	\$1,000	19-Sep-2006	01-Jul-2007	0.8	\$39	n/a	\$39

Notes for DELAYED costs: Estimated cost to plug or test the abandoned wells. The Date Required is the date of the investigation. The Final Date is the estimated date of compliance.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Interest Saved	Onetime Costs	EB Amount
Avoided Costs				
Disposal		0.0	\$0	\$0
Personnel		0.0	\$0	\$0
Inspection/Reporting/Sampling		0.0	\$0	\$0
Supplies/equipment		0.0	\$0	\$0
Financial Assurance [2]		0.0	\$0	\$0
ONE-TIME avoided costs [3]		0.0	\$0	\$0
Other (as needed)		0.0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$1,000** TOTAL **\$39**

Compliance History

Customer/Respondent/Owner-Operator: CN600685960 City of Tehuacana Classification: Rating:

Regulated Entity: RN101250843 CITY OF TEHUACANA Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1470013
WATER LICENSING LICENSE 1470013

Location: 205 South Railroad Street, Tehuacana, TX 76686

TCEQ Region: REGION 09 – WACO

Date Compliance History Prepared: October 24, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 24, 2001 to October 24, 2006

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

Name: Amy Martin Phone: 512-239-2540

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 10/11/2006 (512219)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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 TEHUACANA
RN101250843

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-1888-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Tehuacana ("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 system at 205 South Railroad Street in Tehuacana, Limestone County, Texas (the "Facility") that has approximately 160 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 October 17, 2006.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Four Hundred Dollars (\$1,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Thousand One Hundred Twenty Dollars (\$1,120) of the administrative penalty and Two Hundred Eighty Dollars (\$280) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.



6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to meet the Commission'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 September 19, 2006.
2. Failed to provide a water system operating record at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), as documented during an investigation conducted on September 19, 2006. Specifically, the facility did not have the ANSI/NSF Standard 60 Certification for the calcium hypochlorite disinfectant.
3. Failed to inspect the interior surface of the pressure tank every five years, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B), as documented during an investigation conducted on September 19, 2006.
4. Failed to provide disinfection equipment to maintain the required minimum disinfectant residual, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3), as documented during an investigation conducted on September 19, 2006.
5. Failed to plug abandoned wells or have them tested every five years to demonstrate that they are in a non-deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u), as documented during an investigation conducted on September 19, 2006.

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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 Tehuacana, Docket No. 2006-1888-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin maintaining all required water system operating records, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Commence conducting and recording results of the pressure tank inspection, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Install and operate facilities to maintain an adequate disinfectant residual throughout the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.42.
 - b. Within 45 days after the effective date of this Agreed Order, submit written documentation, as detailed in Ordering Provision 2.d. below, that certifies compliance with Ordering Provisions 2.a.i. through 2.a.iii.
 - c. Within 60 days after the effective date of this Agreed Order:
 - i. Secure an additional amount of water so as to meet the system's capacity requirements, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Plug and seal wells, or test wells Nos. 1 and 2 to prove that each is in a non-deteriorated condition, in accordance with 30 TEX. ADMIN. CODE § 290.46.

Section 1

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- d. 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 2.c.i. and 2.c.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed

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Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

PHILOSOPHY 101

LECTURE 1

THE PHILosophical Method

1.1 The Philosophy of Language

1.2 The Philosophy of Mind

1.3 The Philosophy of Action

1.4 The Philosophy of Law

1.5 The Philosophy of Science

1.6 The Philosophy of Religion

1.7 The Philosophy of Education

1.8 The Philosophy of Art

1.9 The Philosophy of Politics

1.10 The Philosophy of History

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/27/07
~~JAN 23, 2007~~

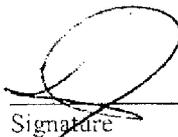
Date

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

JAN 23 2007

Date

HERMAN D. EAST JR

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

MAYOR

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.

