

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0202-PWS-E **TCEQ ID:** RN101181428 **CASE NO.:** 32612

RESPONDENT NAME: Jacobs Water Supply Corporation

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Jacobs Water Supply Corporation Plants 3 & 4, on the north side of Jackson Road west of Farm-to-Market Road 2276, Rusk County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. Wayne Holland, President, Jacobs Water Supply Corporation, P.O. Box 954, Henderson, Texas 75653 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 21, 2007</p> <p>Date of NOV/NOE Relating to this Case: March 29, 2005, October 20, 2005, January 12, 2006, April 19, 2006, July 20, 2006, November 10, 2006 (NOVs); January 23, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with the Maximum Contaminant Level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEXAS HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$805</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$805</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has six prior NOVs for the same violation over the previous five year period.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	5-Feb-2007	Screening	9-Feb-2007	EPA Due	1-Nov-2007
	PCW	12-Feb-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Jacobs Water Supply Corporation
Reg. Ent. Ref. No.	RN101181428
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32612	No. of Violations	1
Docket No.	2007-0202-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
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 **Enhancement** **Subtotals 2, 3, & 7**

Notes

Culpability **Enhancement** **Subtotal 4**

Notes

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

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Total EB Amounts **Subtotal 6**
Approx. Cost of Compliance **0% Enhancement***
*Capped at the Total EB \$ Amount

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 **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 9-Feb-2007

Docket No. 2007-0202-PWS-E

PCW

Respondent Jacobs Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 32612

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101181428

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	6	30%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 36%

>> 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 penalty enhancement is due to six prior Notices of Violation (NOVs) for the same or similar violations as those in the current enforcement action and three dissimilar prior NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 36%

Screening Date 9-Feb-2007

Docket No. 2007-0202-PWS-E

PCW

Respondent Jacobs Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 32612

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN101181428

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Texas Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") of 0.080 milligrams per liter ("mg/L") for TTHM based on a running annual average. Specifically, the running annual average concentration for TTHM was 0.096 mg/L during the first quarter of 2005, 0.086 mg/L during the third quarter of 2005, 0.095 mg/L during the fourth quarter of 2005, 0.097 mg/L during the first quarter of 2006, 0.131 mg/L during the second quarter of 2006 and 0.129 mg/L during the third quarter of 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to comply with the MCL for TTHM resulted in the exposure of customers of the water supply to a significant amount of contaminants which did not exceed levels that are protective to human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 720

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

Violation Base Penalty \$500

Two annual events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$731

Violation Final Penalty Total \$805

This violation Final Assessed Penalty (adjusted for limits) \$805

Economic Benefit Worksheet

Respondent: Jacobs Water Supply Corporation
Case ID No.: 32612
Reg. Ent. Reference No.: RN101181428
Media: Public Water Supply
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$3,000	8-Feb-2005	1-Aug-2008	3.5	\$35	\$696	\$731
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to implement an alternative method of disinfection, calculated from the date when the first exceedances occurred to the projected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$3,000

TOTAL

\$731

Compliance History

Customer/Respondent/Owner-Operator:	CN600628945 Jacobs Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101181428 JACOBS WSC PLANTS 3 & 4	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2010062
Location:	N SIDE OF JACKSON RD W OF FM 2276 IN RUSK COUNTY, TEXAS		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	February 07, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 07, 2002 to February 07, 2007		

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

Name: Yuliya Dunaway Phone: (210) 403-4077

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 | 07/20/2006 | (537408) |
| 2 | 01/18/2006 | (451071) |
| 3 | 07/27/2006 | (481961) |
| 4 | 01/12/2006 | (537404) |
| 5 | 11/10/2006 | (537410) |
| 6 | 08/04/2005 | (401569) |
| 7 | 04/19/2006 | (537406) |
| 8 | 01/29/2007 | (537932) |
| 9 | 05/18/2005 | (342866) |
| 10 | 03/29/2005 | (537233) |
| 11 | 12/13/2002 | (18006) |
| 12 | 10/20/2005 | (537403) |

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

- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 04/19/2006 | (537406) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | | |
| Description: | Violated the maximum contaminant level for trihalomethanes during the first quarter of 2006. | | |
| | | | |
| Date: | 07/28/2006 | (481961) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | | |
| Description: | Failure to provide for commission review an approved sanitary control easement, ordinance, deed or exception letter. | | |
| Self Report? | NO | | Classification: Minor |

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)[G]
 Description: Failure to maintain complete public water system's operating records, and to provide copies of these records for review during inspections by the Commission.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to compile and maintain current a thorough plant operations manual for operator review and reference. This manual should be of sufficient detail to provide the operator with routine maintenance and repair procedure as well as provide telephone numbers of water system personnel, system officials, and loca
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
 Description: Failure to maintain the ground storage tanks and pressure tanks to ensure that the interior and exterior coating systems are continuing to provide adequate protection to all metal surfaces.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
 Description: Failure to equip a pressure tank with a capacity greater than 1,000 gallons with some sanitary means of determining the air-to-water ratio.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)
 Description: Failure to securely install all water system electrical wiring in compliance with a local or national electrical code.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failure to maintain the three strands of barbed wire at the top of the fence at Plant 3. In order to make the fence more intruder-resistant, the barbed wire must be installed on support arms which angle outward and away from the top of the fence at a 45 degree angle.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
 Description: Failure to provide an operable high level forced draft ventilation fan in the gas chlorination room.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to maintain intruder resistant fences.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 Description: Failure to have operating records accessible for review during inspections.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121[G]
 Description: Failure to develop and maintain an up to date system monitoring plan
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)
 Description: Failure to provide all pressure tanks with a pressure release device.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)
 Description: Failure to employ an adequately licensed operator.
 Date: 10/20/2005 (537403)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2005.
 Date: 07/20/2006 (537408)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2006.
 Date: 01/12/2006 (537404)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2005.
 Date: 12/17/2002 (18006)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
 Description: Failure to protect the chlorine cylinders from vandalism and/or the elements.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failure to adopt an adequate plumbing ordinance, regulations or a service agreement with provisions for proper enforcement.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C)
Description: Failure to maintain the records of tests conducted on backflow prevention assemblies and maintenance reports. The regulated entity must provide these records to commission staff for inspection upon request and retain them for a minimum of three years.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide for commission review an approved sanitary control easement, ordinance, deed or exception letter.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to seal the wellhead with the use of gaskets or a pliable crack-resistant caulking compound.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain the map of the distribution system current so that valves and mains may be easily located during emergencies

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 288, SubChapter B 288.20[G]
Description: Failure to develop and maintain a drought contingency plan.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)
Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include:

Your water system must be modified to meet this/these requirement(s) to assure an adequate supply of water at all times.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
Description: Please be advised that public water systems shall notify the executive director prior to providing an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)
Description: Failure to provide a total storage capacity of 200 gallons per connection.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)[G]
Description: Failure to flush all dead-end mains monthly, or more often if required, to maintain water quality.

Date: 11/10/2006 (537410)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006.

Date: 05/20/2005 (342866)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
Description: Failure to protect the chlorine cylinders from vandalism and/or the elements.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C)
Description: Failure to maintain the records of tests conducted on backflow prevention assemblies and maintenance reports. The regulated entity must provide these records to commission staff for inspection upon request and retain them for a minimum of three years.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide for commission review an approved sanitary control easement, ordinance, deed or exception letter.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to seal the wellhead with the use of gaskets or a pliable crack-resistant

caulking compound.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Description: Failure to maintain the map of the distribution system current so that valves and mains may be easily located during emergencies

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 288, SubChapter B 288.20[G]
 Description: Failure to develop and maintain a drought contingency plan.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)[G]
 Description: Failure to flush all dead-end mains monthly, or more often if required, to maintain water quality.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)[G]
 Description: Failure to maintain complete public water system's operating records, and to provide copies of these records for review during inspections by the Commission.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to compile and maintain current a thorough plant operations manual for operator review and reference. This manual should be of sufficient detail to provide the operator with routine maintenance and repair procedure as well as provide telephone numbers of water system personnel, system officials, and loca

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
 Description: Failure to maintain the ground storage tanks and pressure tanks to ensure that the interior and exterior coating systems are continuing to provide adequate protection to all metal surfaces.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
 Description: Failure to equip a pressure tank with a capacity greater than 1,000 gallons with some sanitary means of determining the air-to-water ratio.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)
 Description: Failure to securely install all water system electrical wiring in compliance with a local or national electrical code.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failure to maintain the three strands of barbed wire at the top of the fence at Plant 3. In order to make the fence more intruder-resistant, the barbed wire must be installed on support arms which angle outward and away from the top of the fence at a 45 degree angle.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
 Description: Failure to provide an operable high level forced draft ventilation fan in the gas chlorination room.

Date: 03/29/2005 (537233)

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

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
JACOBS WATER SUPPLY
CORPORATION
RN101181428**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0202-PWS-E**

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

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

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

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

I. FINDINGS OF FACT

1. Jacobs WSC owns and operates a public water supply on the north side of Jackson Road west of Farm-to-Market Road 2276, Rusk County, Texas (the “Facility”) that has approximately 206 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on January 21, 2007, TCEQ staff documented that Jacobs WSC exceeded the Maximum Contaminant Level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentration for TTHM was 0.096 mg/L during the first quarter of 2005, 0.086 mg/L during the third quarter of 2005, 0.095 mg/L during the fourth quarter of 2005, 0.097 mg/L during the first quarter of 2006, 0.131 mg/L during the second quarter of 2006 and 0.129 mg/L during the third quarter of 2006.
3. Jacobs WSC received notices of the violations dated March 29, 2005, October 20, 2005, January 12, 2006, April 19, 2006, July 20, 2006, November 10, 2006 and January 23, 2007.

II. CONCLUSIONS OF LAW

1. Jacobs WSC is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, Jacobs WSC failed to comply with the MCL of 0.080 mg/L for TTHM based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEXAS HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Jacobs WSC for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Eight Hundred Five Dollars (\$805) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Jacobs WSC has paid the Eight Hundred Five Dollar (\$805) administrative penalty.

III. ORDERING PROVISIONS

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

1. Jacobs WSC is assessed an administrative penalty in the amount of Eight Hundred Five Dollars (\$805) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Jacobs WSC's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jacobs Water Supply Corporation, Docket No. 2007-0202-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. Jacobs WSC shall undertake the following technical requirements:

- a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
- b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon Jacobs WSC. Jacobs WSC 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 Jacobs WSC shall be made in writing to the Executive Director. Extensions are not effective until Jacobs WSC receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Jacobs WSC if the Executive Director determines that Jacobs WSC has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against Jacobs WSC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zedler
For the Executive Director

7/25/07
Date

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

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

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

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

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

Wayne Holland
Signature

4-3-07
Date

Wayne Holland
Name (Printed or typed)
Authorized Representative of
Jacobs Water Supply Corporation

President
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.

