EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2004-1836-PWS-E **TCEQ ID:** RN101391308 **CASE NO.:** 21658

RESPONDENT NAME: City of Killeen

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Killeen Public Water System, Killeen, Bell County

TYPE OF OPERATION: Public water supply system

SMALL BUSINESS: ___ Yes X No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 7, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223

TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Ms. Connie J. Green, City Manager, City of Killeen, P.O. Box 1329, Killeen, Texas 76540
The Honorable Maureen Jouett, Mayor, City of Killeen, P.O. Box 1329, Killeen, Texas 76540
Mr. Bruce A. Butscher, P.E., Director of Public Works, City of Killeen, P.O. Box 1329, Killeen, Texas 76540

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** August 5, 2004 **Date of NOE Relating to this Case:** September 22, 2004(NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failed to properly install air release devices in the distribution system [30 TEX. ADMIN. CODE § 290.44(d)(1)]. 2) Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists [30 TEX. ADMIN. CODE §§ 290.44(h)(1)(A) and 290.47(i)]. 3) Failed to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.20 milligrams per liter (mg/L) free chlorine or 0.50 mg/L chloramine [30 TEX. ADMIN. CODE § 290.110(b)(4)]. 4) Failed to provide chemical containment equipment for all liquid chemical storage tanks [30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)].	**Total Assessed:** $1,473 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $1,473 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the City has implemented the following corrective measures at the Facility: a) On August 10, 2004: i. Completed all modifications to ensure air release devices are properly installed throughout the water distribution system; and ii. Installed containment facilities for all liquid chemical storage tanks. b) On September 3, 2004, installed the required backflow prevention assembly at the non-compliant location; and c) On November 1, 2004, completed final corrective measures and certified that the residual disinfectant concentration is compliant. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).

Attachment A
Docket Number: 2004-1836-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Killeen
Penalty Amount:	One Thousand Four Hundred Seventy-Three Dollars ($1,473)
SEP Offset Amount:	One Thousand Four Hundred Seventy-Three Dollars ($1,473)
Type of SEP:	Custom
Location of SEP:	Bell County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset 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 hold a one-day city-wide waste collection and recycling event and a waste tire dump clean up event. The clean up event will include recycling batteries, electronics, and tires.

The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees;
- is advertised in:
  - one newspaper of large circulation in the geographic area,
  - flyers placed in utility bill mail-outs,
  - City of Killeen web page, and
  - City of Killeen cable channel.

The Respondent shall collect, transport, and dispose of the collected wastes. SEP monies related to this Order will be used for roll-off bins, heavy equipment including a track loader, and small equipment to be used during the event.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous E-waste from the waste stream destined for disposal or incineration and to divert the E-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize E-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

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

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 45 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other

verifying documentation attached;

2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, batteries, pounds of electronic waste collected;
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. The Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

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

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

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 17, 2004*

DATES

PCW	08-Nov-2004	**Screening**	08-Nov-2004	**Priority Due**	06-Feb-2005	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Killeen		
Reg. Ent. Ref. No.	RN101391308		
Additional ID No(s).	Public Water Supply ID No. 0140006		
Facility/Site Region	9-Waco	**Major/Minor Source**	Major Source

CASE INFORMATION

Enf./Case ID No.	21658	**No. of Violations**	4
Docket No.	2004-1836-PWS-E	**Order Type**	1660 without deferral
Case Priority	3	**Enf. Coordinator**	Edward R. Moderow
Media Program(s)	Public Water Supply	**EC's Team**	Enforcement Team 6
Multi-Media			
Admin. Penalty $ Limit Minimum	$50	**Maximum**	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $1,550

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement *Subtotals 2, 3, & 7* $78

Notes: The Respondent received one previous NOV with same or similar violations.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: Does not meet culpability criteria.

Good Faith Effort to Comply 10% Reduction *Subtotal 5* -$155

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

Notes: The Respondent returned to compliance November 1, 2004.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$53
Approx. Cost of Compliance	$7,000

SUM OF SUBTOTALS 1-7 **Final Subtotal** $1,473

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

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

Notes:

Final Penalty Amount $1,473

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** $1,473

DEFERRAL 0% Reduction **Adjustment** $0

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

Notes: No reduction is recommended based on same or similar violations documented at this site in the past five years.

PAYABLE PENALTY $1,473

Screening Date 08-Nov-2004 **Docket No.** 2004-1836-PWS-E **PCW**
Respondent City of Killeen *Policy Revision 2 (September 2002)*
Case ID No. 21658 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN101391308
Additional ID No(s). Public Water Supply ID No. 0140006
Media [Statute] Public Water Supply
Enf. Coordinator Edward R. Moderow
Site Address City of Killeen, Bell County

Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **5%**

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

No

Adjustment Percentage (Subtotal 3) **0%**

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

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes The Respondent received one previous NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **5%**

Screening Date 08-Nov-2004 **Docket No.** 2004-1836-PWS-E **PCW**

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

Case ID No. 21658 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN101391308

Additional ID No(s). Public Water Supply ID No. 0140006

Media [Statute] Public Water Supply

Enf. Coordinator Edward R. Moderow

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.44(d)(1)

Secondary Rule Cite(s)

Violation Description Failed to properly install air release devices in the distribution system.

Base Penalty $1,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 50%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed protective levels.

Adjustment -$500

Base Penalty Subtotal $500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $500

One monthly event is recommended based on the August 5, 2004 investigation to the August 10, 2004 date of compliance.

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $475

This violation Final Assessed Penalty (adjusted for limits) $475

Economic Benefit Worksheet

Respondent City of Killeen
Case ID No. 21658
Reg. Ent. Reference No. RN101391308
Additional ID No(s). Public Water Supply ID No. 0140006
Media [Statute] Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$2,200	05-Aug-2004	10-Aug-2004	0.0	$0	$2	$2
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 compliant air release devices at 11 locations.						
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 $2,200

TOTAL $2

Screening Date 08-Nov-2004 **Docket No.** 2004-1836-PWS-E **PCW**

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

Case ID No. 21658 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN101391308

Additional ID No(s). Public Water Supply ID No. 0140006

Media [Statute] Public Water Supply

Enf. Coordinator Edward R. Moderow

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.44(h)(1)(A) and 290.47(i)

Secondary Rule Cite(s)

Violation Description Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists. Specifically, the water system did not have backflow prevention assemblies or an air gap on the water lines to the Killeen Veterinary Clinic located at the intersection of Pershing Drive and Old FM 440.

Base Penalty $1,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 50%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed protective levels.

Adjustment -$500

Base Penalty Subtotal $500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty $500

One monthly event is recommended based on the August 5, 2004 investigation to the September 4, 2004 date of compliance.

Economic Benefit (EB) for this violation

Estimated EB Amount $8

Statutory Limit Test

Violation Final Penalty Total $475

This violation Final Assessed Penalty (adjusted for limits) $475

Economic Benefit Worksheet

Respondent City of Killeen
Case ID No. 21658
Reg. Ent. Reference No. RN101391308
Additional ID No(s). Public Water Supply ID No. 0140006
Media [Statute] Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$1,500	05-Aug-2004	03-Sep-2004	0.1	$0	$8	$8
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 required device.						
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 $1,500

TOTAL $8

Screening Date 08-Nov-2004 **Docket No.** 2004-1836-PWS-E **PCW**

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

Case ID No. 21658 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN101391308

Additional ID No(s). Public Water Supply ID No. 0140006

Media [Statute] Public Water Supply

Enf. Coordinator Edward R. Moderow

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.110(b)(4)

Secondary Rule Cite(s)

Violation Description Failed to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.20 mg/L free chlorine or 0.50 mg/L chloramine. Specifically, sample results from the investigation revealed 0.05 mg/L free chlorine.

Base Penalty $1,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed protective levels.

Adjustment -$750

Base Penalty Subtotal $250

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 $250

One single event is recommended based on documentation of the violation during the August 5, 2004 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $42

Statutory Limit Test

Violation Final Penalty Total $238

This violation Final Assessed Penalty (adjusted for limits) $238

Economic Benefit Worksheet

Respondent City of Killeen
Case ID No. 21658
Reg. Ent. Reference No. RN101391308
Additional ID No(s). Public Water Supply ID No. 0140006
Media [Statute] Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$2,500	05-Aug-2004	01-Nov-2004	0.2	$2	$40	$42
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 undertake necessary steps to ensure compliant chlorine or chloramine concentrations.

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: $2,500

TOTAL: $42

Screening Date 08-Nov-2004 **Docket No.** 2004-1836-PWS-E **PCW**

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

Case ID No. 21658 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN101391308

Additional ID No(s). Public Water Supply ID No. 0140006

Media [Statute] Public Water Supply

Enf. Coordinator Edward R. Moderow

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.42(f)(1)(E)(ii)

Secondary Rule Cite(s)

Violation Description Failed to provide chemical containment equipment for all liquid chemical storage tanks. Specifically, an appropriate chemical containment system was not present at 3 locations: Southeast Elevated Tank at 4303 Cunningham Road, Airport Pump Station at 5121 West Schlueter Loop, and Pump Station No. 3 at 304 South 48th Street.

Base Penalty $1,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed protective levels.

Adjustment -$900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 3

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

Violation Base Penalty $300

Three single events are recommended based on the three non-compliant locations, as documented during the August 5, 2004 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $285

This violation Final Assessed Penalty (adjusted for limits) $285

Economic Benefit Worksheet

Respondent City of Killeen
Case ID No. 21658
Reg. Ent. Reference No. RN101391308
Additional ID No(s). Public Water Supply ID No. 0140006
Media [Statute] Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$800	05-Aug-2004	10-Aug-2004	0.0	$0	$1	$1
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 purchase and install a compliant chemical containment system.						
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 $800

TOTAL $1

Compliance History

(For Penalty Purposes Only)

Customer/Respondent/Owner-Operator: CN600674683

CITY OF KILLEEN Classification: AVERAGE Rating: 2.36

Regulated Entity: RN101391308

CITY OF KILLEEN PUBLIC WATER SYSTEM Classification: n/a Site Rating: n/a

ID Number(s):	WATER LICENSING	LICENSE	0140006
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0140006

Location: P.O. Box 1329, Killeen, TX, 76540

TCEQ Region: Region 9 - Waco

Date Compliance History Prepared: November 10, 2004

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 10, 1999 to November 10, 2004

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

Name: Edward R. Moderow Phone: (512) 239-2680

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 08/05/2004 (285814)

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

Date: 12/20/1999

Self Report? No Classification: n/a
Citation: 30 TAC § 290.44(h)(1)
30 TAC § 290.46(j)(3)(A)

Description: Failure to install backflow prevention assemblies or an air gap at all at all residences or establishments where an actual or potential contamination hazard exists

Self Report? No Classification: n/a
Citation: 30 TAC § 290.46(j)

Description: Failure to maintain Customer Service Inspection certifications on file

Self Report? No Classification: n/a
Citation: 30 TAC § 290.44(d)(1)

Description: Failure to properly install air release devices in the distribution system

Self Report? No Classification: n/a
Citation: 30 TAC § 290.46(p)

Description: Failure to make available inspection reports of the city's five concrete water storage tanks

Self Report? No Classification: n/a
Citation: 30 TAC § 290.42(e)(7)

Description: Failure to equip the chlorination room at Pump Stations No. 4 and 5 with both high level and floor level screened vents

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
CITY OF KILLEEN	§	**TEXAS COMMISSION ON**
PUBLIC WATER SUPPLY ID NO.	§	
0140006	§	
RN101391308	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2004-1836-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 Killeen ("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 system in Killeen, Bell County, Texas (the "Facility") that has approximately 31,388 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 September 27, 2004.

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 Seventy-Three Dollars ($1,473) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Four Hundred Seventy-Three Dollars ($1,473) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

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 recognizes that the City has implemented the following corrective measures at the Facility:

   a. On August 10, 2004:

      i. Completed all modifications to ensure air release devices are properly installed throughout the water distribution system; and

      ii. Installed containment facilities for all liquid chemical storage tanks.

   b. On September 3, 2004, installed the required backflow prevention assembly at the non-compliant location; and

   c. On November 1, 2004 completed final corrective measures and certified that the residual disinfectant concentration is compliant.

9. 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.

10. 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.

11. 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 properly install air release devices in the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(1), as documented during an investigation conducted on August 5, 2004;

2. Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists, in violation of 30 TEX. ADMIN. CODE §§ 290.44(h)(1)(A) and 290.47(i), as documented during an investigation conducted on August 5, 2004;

3. Failed to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.20 mg/L free chlorine or 0.50 mg/L chloramine, in violation of 30 TEX. ADMIN. CODE § 290.110(b)(4), as documented during an investigation conducted on August 5, 2004; and

4. Failed to provide chemical containment equipment for all liquid chemical storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii), as documented during an investigation conducted on August 5, 2004.

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 imposition 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 Killeen, Docket No. 2004-1836-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 Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 5 above, One Thousand Four Hundred Seventy-Three Dollars ($1,473) 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. 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 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

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

Connie J. Green
Signature

March 2, 2007
Date

Connie J. Green
Name (Printed or typed)
Authorized Representative of
City of Killeen

City Manager
Title

For the Executive Director

6/27/07
Date

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

Attachment A
Docket Number: 2004-1836-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Killeen
Penalty Amount:	One Thousand Four Hundred Seventy-Three Dollars ($1,473)
SEP Offset Amount:	One Thousand Four Hundred Seventy-Three Dollars ($1,473)
Type of SEP:	Custom
Location of SEP:	Bell County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset 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 hold a one-day city-wide waste collection and recycling event and a waste tire dump clean up event. The clean up event will include recycling batteries, electronics, and tires.

The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees;
- is advertised in:
  - one newspaper of large circulation in the geographic area,
  - flyers placed in utility bill mail-outs,
  - City of Killeen web page, and
  - City of Killeen cable channel.

The Respondent shall collect, transport, and dispose of the collected wastes. SEP monies related to this Order will be used for roll-off bins, heavy equipment including a track loader, and small equipment to be used during the event.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous E-waste from the waste stream destined for disposal or incineration and to divert the E-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize E-waste components, including CRTs.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

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

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 45 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other

verifying documentation attached;

2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, batteries, pounds of electronic waste collected;
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. The Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

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

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

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state 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.