EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2087-PWS-E **TCEQ ID:** RN101202042 **CASE NO.:** 31852

RESPONDENT NAME: City of Roanoke

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 Roanoke Public Water Supply, 265 Marshall Creek Road, Denton County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ____ Yes __X__ No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 14, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: The Honorable Carl Gierisch, Mayor, City of Roanoke, 108 South Oak Street, Roanoke, Texas 76262
Mr. Jimmy Stathetos, City Manager, City of Roanoke, 108 South Oak Street, Roanoke, Texas 76262

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 ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** November 7, 2006 **Date of NOE Relating to this Case:** November 23, 2006 (NOE) **Background Facts:** This was a routine record review. Three violations were documented. **WATER** 1) Failed to provide a minimum production capacity of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(f)(4) and TEX. HEALTH AND SAFETY CODE § 341.0315(c)]. 2) Failed to provide an elevated storage capacity of 100 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH AND SAFETY CODE § 341.0315(c)]. 3) Failed to provide a service pump capacity of 2.0 gpm per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH AND SAFETY CODE § 341.0315(c)].	**Total Assessed:** $802 **Total Deferred:** $160 _X_ Expedited Settlement ___Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $642 **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** __ **Average** __ **Poor** **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 365 days after the effective date of this Agreed Order: i. Provide a minimum production capacity of 0.6 gpm per connection; ii. Provide an elevated storage capacity of 100 gallons per connection; and iii. Provide a service pump capacity of 2.0 gpm per connection. b. Within 370 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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision November 17, 2006*

TCEQ

DATES					
Assigned	20-Nov-2006				
PCW	21-Nov-2006	Screening	21-Nov-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Roanoke		
Reg. Ent. Ref. No.	RN101202042		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	31852	No. of Violations	3
Docket No.	2006-2087-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Christopher Miller
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 7% Enhancement — *Subtotals 2, 3, & 7* **$52**

Notes: The enhancement is due to one prior Notice of Violation ("NOV") containing violations the same as or similar to the violations in the current enforcement case and one NOV containing dissimilar violations.

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

Notes: Respondent does not meet the culpability criteria.

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

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$8,242
Approx. Cost of Compliance	$68,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$802**

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 **$802**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$802**

DEFERRAL — 20% Reduction — *Adjustment* **-$160**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$642**

Screening Date 21-Nov-2006 **Docket No.** 2006-2087-PWS-E **PCW**

Respondent City of Roanoke

Case ID No. 31852

Reg. Ent. Reference No. RN101202042

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

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	1	2%
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) 7%

>> 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 enhancement is due to one prior Notice of Violation ("NOV") containing violations the same as or similar to the violations in the current enforcement case and one NOV containing dissimilar violations.

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

Screening Date 21-Nov-2006 **Docket No.** 2006-2087-PWS-E **PCW**

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

Case ID No. 31852 *PCW Revision November 17, 2006*

Reg. Ent. Reference No. RN101202042

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.45(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a minimum production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, a system with 3,757 connections requires a minimum production capacity of 2,254 gpm. On the date of the investigation the system was providing 1,450 gpm, a 40% deficiency.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to provide adequate production capacity could compromise the system's ability to provide an adequate supply of water to its customers.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 | 15 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $250

One quarterly event is recommended based on the November 7, 2006 investigation date to the November 21, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,818

Statutory Limit Test

Violation Final Penalty Total $267

This violation Final Assessed Penalty (adjusted for limits) $267

Economic Benefit Worksheet

Respondent City of Roanoke
Case ID No. 31852
Reg. Ent. Reference No. RN101202042
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$15,000	7-Nov-2006	31-Jul-2008	1.7	$87	$1,732	$1,818
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 provide 0.6 gpm per connection. Date required is the date of the investigation. 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: There are no avoided costs associated with this investigation.

Approx. Cost of Compliance: $15,000

TOTAL: $1,818

Screening Date	21-Nov-2006	**Docket No.** 2006-2087-PWS-E	**PCW**
Respondent	City of Roanoke		*Policy Revision 2 (September 2002)*
Case ID No.	31852		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN101202042		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Christopher Miller		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide an elevated storage capacity of 100 gallons per connection. Specifically, a system with 3,757 connections is required to provide 0.3757 million gallons of elevated storage capacity. On the date of the investigation the system was providing 0.2 million gallons of elevated storage storage, a 47% deficiency.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: The lack of adequate elevated storage capacity could result in water outages potentially allowing a significant amount of contaminants to enter the water supply which would not exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1

15 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $250

One quarterly event is recommended based on the November 7, 2006 investigation date to the November 21, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $6,060

Statutory Limit Test

Violation Final Penalty Total $267

This violation Final Assessed Penalty (adjusted for limits) $267

Economic Benefit Worksheet

Respondent City of Roanoke
Case ID No. 31852
Reg. Ent. Reference No. RN101202042
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$50,000	7-Nov-2006	31-Jul-2008	1.7	$289	$5,772	$6,060
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 provide an elevated storage capacity of 100 gallons per connection. Date required is the date of the investigation. 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: There are no avoided costs associated with this investigation.

Approx. Cost of Compliance: $50,000

TOTAL: $6,060

Screening Date 21-Nov-2006 **Docket No.** 2006-2087-PWS-E **PCW**

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

Case ID No. 31852 *PCW Revision November 17, 2006*

Reg. Ent. Reference No. RN101202042

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iii) and Tex. Health and Safety Code § 341.0315(c)

Violation Description Failed to provide a service pump capacity of 2.0 gpm per connection. Specifically, a system with 3,757 connections requires a minimum service pump capacity of 7,514 gpm. On the date of the investigation the service pump capacity was 5,100 gpm, a 32% deficiency.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: The lack of adequate service pump capacity could result in water outages potentially allowing a significant amount of contaminants to enter the water supply which would not exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 | 15 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $250

One quarterly event is recommended based on the November 7, 2006 investigation date to the November 21, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $364

Statutory Limit Test

Violation Final Penalty Total $267

This violation Final Assessed Penalty (adjusted for limits) $267

Economic Benefit Worksheet

Respondent City of Roanoke
Case ID No. 31852
Reg. Ent. Reference No. RN101202042
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$3,000	7-Nov-2006	31-Jul-2008	1.7	$17	$346	$364
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 provide a minimum service pump capacity of 2.0 gpm per connection. Date required is the investigation date. 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: There are no avoided costs associated with this investigation.

Approx. Cost of Compliance $3,000

TOTAL $364

Compliance History

Customer/Respondent/Owner-Operator:	CN600241582	City of Roanoke	Classification:	Rating:
Regulated Entity:	RN101202042	CITY OF ROANOKE PWS	Classification:	Site Rating:

ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0610008
	WATER LICENSING	LICENSE	0610008

Location: 265 MARSHALL CREEK RD, ROANOKE, TX, 76262

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: November 21, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 21, 2001 to November 21, 2006

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

Name: Chris Miller Phone: 512-239-6580

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 05/02/2006 (461748)
2 09/03/2003 (150717)
3 01/14/2004 (256226)
4 11/16/2006 (518753)
5 05/15/2003 (36320)

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

Date: 05/04/2006 (461748)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)

Description: Failure to provide a minimum of 0.6 gallons per minute per connection based on the maximum authorized daily purchase rate specified in the contract plus the actual production capacity of the system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)

Description: Failure to provide pressure maintenance facilities consisting of either 100 gallons per connection of elevated storage or a pressure tank capacity of 20 gallons per connection (maximum capacity of 30,000 gallons for up to 2500 connections).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)

Description: Failure to provide a service pump capacity such that each pump station or pressure plane must have two or more pumps with a total capacity of 2.0 gallons per minute per connection.

Date: 05/20/2003 (36320)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for each of the wells at the time of inspection.

Self Report? NO Classification: Major

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

Description: Failure to properly install three strands of barbed wire at the top of the fence which angle outward from the fence at a 45 degree angle at the Country Acres Well site.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]

Description: orking condition and general appearance of the system's facilities and equipment.

Self Report? NO Classification: Minor

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

Description: Failure to compile and maintain current a thorough plant operations manual for operator review and reference.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF ROANOKE	§	
RN101202042	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2087-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 Roanoke ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 265 Marshall Creek Road in Denton County, Texas (the "Facility") that has approximately 3,757 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 November 28, 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 Eight Hundred Two Dollars ($802) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). the City has paid Six Hundred Forty-Two Dollars ($642) of the administrative penalty and One Hundred Sixty Dollars ($160) 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 provide a minimum production capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(4) and TEX. HEALTH AND SAFETY CODE § 341.0315(c), as documented during a record review conducted on November 7, 2006.

2. Failed to provide an elevated storage capacity of 100 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH AND SAFETY CODE § 341.0315(c), as documented during a record review conducted on November 7, 2006.

3. Failed to provide a service pump capacity of 2.0 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH AND SAFETY CODE § 341.0315(c), as documented during a record review conducted on November 7, 2006.

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 Roanoke, Docket No. 2006-2087-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 365 days after the effective date of this Agreed Order;

      i. Provide a minimum production capacity of 0.6 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45;

      ii. Provide an elevated storage capacity of 100 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and

      iii. Provide a service pump capacity of 2.0 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45.

   b. Within 370 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:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

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 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

_____ 6/27/07
For the Executive Director 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.

_____ 2/15/07
Signature Date

Jimmy Stathatos City Manager
Name (Printed or typed) Title
Authorized Representative of
City of Roanoke

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.