

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER****DOCKET NO.:** 2006-2256-PWS-E **TCEQ ID:** RN102676129 **CASE NO.:** 32069**RESPONDENT NAME:** Jack Neely dba Heights Water Company

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Heights Water Company, County Road 24 between State Highway 31 and Farm-to-Market Road 2767, Smith County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 30, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Epifanio Villareal, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4033.; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896  <b>Respondent:</b> Mr. Jack Neely, Owner, Heights Water Company, 14397 Farm-to-Market Road 2767, Tyler, Texas 75705-2703  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b>                      None</p> <p><b>Date of Investigation Relating to this Case:</b>                      October 10, 2006</p> <p><b>Date of NOE Relating to this Case:</b> November 30, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Nine violations were documented.</p> <p><b>WATER</b></p> <p>1) Failed to to maintain copies of customer service inspection reports that can be made available to Commission personnel at the time of investigations [30 TEX. ADMIN. CODE § 290.46(f)(3)(E)(iv)].</p> <p>2) Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute per connection at each pump station or pressure plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH AND SAFETY CODE § 341.0315(c)].</p> <p>3) Failed to compile and maintain a facility plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].</p> <p>4) Failed to equip the air compressor line with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank [30 TEX. ADMIN. CODE § 290.43(d)(3)].</p> <p>5) Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(5)(A)].</p>	<p><b>Total Assessed:</b> \$1,785</p> <p><b>Total Deferred:</b> \$357  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$128 (remaining \$1,300 to be paid in 13 monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that Mr. Neely implemented the following corrective measures:</p> <p>a. Submitted documentation demonstrating that an inline air filter has been installed at the Facility, as documented in an invoice dated January 3, 2007; and</p> <p>b. Submitted documentation providing compliance with the pump capacity requirement for the Facility, as documented in a receipt dated January 11, 2007.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 10 days after the effective date of this Agreed Order:</p> <p>i. Begin completing and maintain copies of service inspection certifications prior to providing continuous water service to new construction;</p> <p>ii. Begin weekly monitoring of the disinfectant residual at representative locations throughout the distribution system in accordance with the Facility's monitoring plan;</p> <p>iii. Begin maintaining an up-to-date chemical and microbiological monitoring plan for the facility that identifies all locations where routine sampling for microbial contaminants is conducted; and</p> <p>iv. Prepare and begin submitting DLQORs to the Commission in a timely manner.</p> <p>b. Within 25 days after the effective date after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.</p> <p>c. Within 30 days after the effective date of this Agreed Order:</p>

6) Failed to maintain an up-to-date chemical and microbiological monitoring plan for the facility that identifies all locations where routine sampling for microbial contaminants will be conducted [30 TEX. ADMIN. CODE § 290.121(b)].

7) Failed to maintain on file and make available an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)].

8) Failed to provide a sanitary control easements or an approved exception to the easement requirement that covers the land within 150 feet of the water system's two wells [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].

9) Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Commission each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)].

i. Compile and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference; and

ii. Create and begin maintaining an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies.

d. Within 45 days after the effective date after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.

e. Within 90 days after the effective date of this Agreed Order, obtain a sanitary control easement or an exception to the easement requirement that covers the land within 150 feet of both wells located at the Facility.

f. Within 105 days after the effective date after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.e.

...the ... of ...



# Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	4-Dec-2006	Screening	22-Dec-2006	EPA Due	
	PCW	22-Dec-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Jack Neely dba Heights Water Company		
Reg. Ent. Ref. No.	RN102676129		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	32069	No. of Violations	9	
Docket No.	2006-2256-PWS-E	Order Type	1660	
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal	
Multi-Media		EC's Team	EnforcementTeam 2	
Admin. Penalty \$	Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	\$1,700
---	-------------------	---------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	5% Enhancement	<i>Subtotals 2, 3, &amp; 7</i>	\$85
---------------------------	----------------	--------------------------------	------

Notes: The penalty enhancement is due to one prior Notice of Violation containing a violation that is the same as or similar to the violations in the current enforcement action.

<b>Culpability</b>	No	0% Enhancement	<i>Subtotal 4</i>	\$0
--------------------	----	----------------	-------------------	-----

Notes: The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<i>Subtotal 5</i>	\$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*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$911	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$7,800		

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	\$1,785
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<i>Adjustment</i>	\$0
---	--	-------------------	-----

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

Notes

<i>Final Penalty Amount</i>	\$1,785
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	\$1,785
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	20% Reduction	<i>Adjustment</i>	-\$357
-----------------	---------------	-------------------	--------

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

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$1,428
------------------------	---------

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

### 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 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) 5%

>> 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 one prior Notice of Violation containing a violation that is the same as or similar to the violations in the current enforcement action.

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

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(E)(iv)

Violation Description Failed to maintain copies of Customer Service Inspection reports that can be made available to Commission personnel at the time of investigations. Specifically, at the time of the investigation, the investigator noted that there were no customer service inspection reports available to certify that no actual or potential cross connections exist for the newly constructed Milton home on FM 2767.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

		Harm			
Release		Major	Moderate	Minor	
Actual					Percent 0%
Potential					

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
			x			Percent 10%

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent:** Jack Neely dba Heights Water Company  
**Case ID No.:** 32069  
**Reg. Ent. Reference No.:** RN102676129  
**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)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$150	10-Oct-2006	10-Jul-2007	0.7	\$6	n/a	\$6
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 cost includes the amount to maintain customer service inspection reports, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$6

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

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

Violation Description

Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane. Specifically, at the time of the investigation, the investigator documented that the system is required to have 168 gpm of service pump capacity but only provides 110 gpm, which is 31% deficient.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without sufficient total capacity, customers of the water supply could experience water outages and the system's ability to produce a safe and adequate supply of water to the customers could be impaired.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

73 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, October 10, 2006, to the date of screening, December 22, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$89

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent:** Jack Neely dba Heights Water Company  
**Case ID No.:** 32069  
**Reg. Ent. Reference No.:** RN102676129  
**Media:** Public Water Supply  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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	\$5,000	10-Oct-2006	11-Jan-2007	0.3	\$4	\$85	\$89
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 includes the amount to increase the service pump capacity to 2.0 gallons per minute per connection, calculated from the date of the investigation to the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$89

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)

Violation Description Failed to compile and maintain a facility plant operations manual for operator review and reference.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent** Jack Neely dba Heights Water Company  
**Case ID No.** 32069  
**Reg. Ent. Reference No.** RN102676129  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$200	10-Oct-2006	1-Aug-2007	0.8	\$8	n/a	\$8
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 includes the amount required to develop a facility operations manual calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$8

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.43(d)(3)

Violation Description Failed to equip the air injection line with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failing to equip air injection lines with filters could expose customers of the water supply to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 73

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, October 10, 2006, to the date of screening December 22, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent:** Jack Neely dba Heights Water Company  
**Case ID No.:** 32069  
**Reg. Ent. Reference No.:** RN102676129  
**Media:** Public Water Supply  
**Violation No.:** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$100	10-Oct-2006	3-Jan-2007	0.2	\$0	\$2	\$2
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

The delayed cost includes the amount to equip the air compressor line with a filter, calculated from the date of the investigation to the date of compliance.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$2

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.110(c)(5)(A)

Violation Description Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to monitor the disinfectant on a weekly basis could result in customers of the water supply being exposed to significant amounts of pollutants or contamination which would exceed levels protective of human health

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3 73 Number of violation days

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

Violation Base Penalty \$750

Three monthly events are recommended from the date of the investigation, October 10, 2006, to the date of screening December 22, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$325

Violation Final Penalty Total \$788

This violation Final Assessed Penalty (adjusted for limits) \$788

## Economic Benefit Worksheet

**Respondent:** Jack Neely dba Heights Water Company  
**Case ID No.:** 32069  
**Reg. Ent. Reference No.:** RN102676129  
**Media:** Public Water Supply  
**Violation No.:** 5

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	10-Oct-2006	10-Jul-2007	1.7	\$25	\$300	\$325
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to perform weekly monitoring of the disinfectant residual in the system (\$10 per week), calculated from the date of the investigation to the estimated date of compliance.

Approx. Cost of Compliance	\$300	<b>TOTAL</b>	\$325
----------------------------	-------	--------------	-------

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.121(b)

Violation Description

Failed to maintain an up-to-date chemical and microbiological monitoring plan for the facility that identifies all locations where routine sampling for microbial contaminants will be conducted. Specifically, the system had a monitoring plan, however it did not include the locations where microbiological monitoring is conducted.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes

Approximately 50% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

1 Number of violation days

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

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

## Economic Benefit Worksheet

**Respondent** Jack Neely dba Heights Water Company  
**Case ID No.** 32069  
**Reg. Ent. Reference No.** RN102676129  
**Media** Public Water Supply  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$50	10-Oct-2006	10-Jul-2007	0.7	\$2	n/a	\$2
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 includes the amount to enhance the current microbial monitoring plan for the water supply by including the monitoring locations, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$50

TOTAL \$2

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(2)

Violation Description Failed to maintain an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

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

Adjustment \$900

\$100

Violation Events

1 1 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent** Jack Neely dba Heights Water Company  
**Case ID No.** 32069  
**Reg. Ent. Reference No.** RN102676129  
**Media** Public Water Supply  
**Violation No.** 7

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	10-Oct-2006	1-Aug-2007	0.8	\$20	n/a	\$20
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 cost includes the amount to create and begin maintaining an up-to-date map of the distribution system, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				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

\$500

**TOTAL**

\$20

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description Failed to provide sanitary control easements or an approved exception to the easement requirement that covers the land within 150 feet of the water system's two wells.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Without sanitary control easements for the wells, contaminants could enter the wells and customers of the water supply could be exposed to insignificant amounts of contaminants that do not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

		2		1	Number of violation days
mark only one with an x	daily				Violation Base Penalty \$100
	monthly				
	quarterly				
	semiannual				
	annual				
single event			x		

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent:** Jack Neely dba Heights Water Company  
**Case ID No.:** 32069  
**Reg. Ent. Reference No.:** RN102676129  
**Media:** Public Water Supply  
**Violation No.:** 8

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	10-Oct-2006	1-Oct-2007	1.0	\$3	\$65	\$68
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 includes the amount to obtain two sanitary control easements or exceptions to the easement requirement, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$68

Screening Date 22-Dec-2006

Docket No. 2006-2256-PWS-E

PCW

Respondent Jack Neely dba Heights Water Company

Policy Revision 2 (September 2002)

Case ID No. 32069

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102676129

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 9

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

Violation Description Failed to submit a Disinfectant Level Operating Report ("DLQOR") to the Commission each quarter by the tenth day of the month following the end of each quarter. Specifically, at the time of the investigation, the investigator documented that no DLQOR reports were provided for 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3 Number of violation days 282

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$300

Three quarterly events are recommended for the first three quarters of 2006, which are the quarters immediately preceding the October 10, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$391

Violation Final Penalty Total \$315

This violation Final Assessed Penalty (adjusted for limits) \$315

## Economic Benefit Worksheet

**Respondent:** Jack Neely dba Heights Water Company  
**Case ID No.:** 32069  
**Reg. Ent. Reference No.:** RN102676129  
**Media:** Public Water Supply  
**Violation No.:** 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$500	1-Jan-2006	30-Sep-2006	0.7	\$19	\$373	\$391
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

The avoided costs includes the amount necessary to prepare and submit the DLQORs, calculated for the first three quarters of 2006.

Approx. Cost of Compliance \$500

TOTAL \$391

# Compliance History

Customer/Respondent/Owner-Operator:	CN601358674	NEELY, JACK	Classification:	Rating:
Regulated Entity:	RN102676129	HEIGHTS WATER CO	Classification:	Site Rating:

ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	2120051 2120051
---------------	---	-------------------------	--------------------

Location: County Road 24 between State Highway 31 and Farm-to-Market 2767, Smith County, TX

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: December 22, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 22, 2001 to December 22, 2006

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

Name: Epifanio Villarreal Phone: (210) 403-4033

## 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.)

04/28/2003 (34135)

11/30/2006 (519325)

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

Date: 05/04/2003 (34135)

Self Report? NO

Classification: Moderate

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

Description: Failure to complete a customer service inspection certification prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or

Self Report? NO

Classification: Moderate

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

5A THC Chapter 341, SubChapter A 341.0315[G]

Description: Failure to maintain two or more service pumps with a total rated capacity of 2.0 gallons per minute per connection.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)

Description: Failure to maintain the tank inspection records. The results of these inspections must be recorded and maintained for at least five years, per §290.46(f)(3)(D)(ii). The records must be available for review by Commission staff during annual sanitary surveys of the system.

Self Report? NO

Classification: Moderate

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

Description: Failure to maintain the system flush records. Monthly Reports of Water Works Operation must be compiled regularly each month and kept on file for commission review for at least 2 years. The reports must be completed in ink, typed, or computer-printed and must be signed by the certified operator.

The monthly report

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  
JACK NEELY DBA HEIGHTS  
WATER COMPANY  
RN102676129

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

AGREED ORDER  
DOCKET NO. 2006-2256-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 Jack Neely dba Heights Water Company ("Mr. Neely") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Neely appear before the Commission and together stipulate that:

1. Mr. Neely owns and operates a public water supply on County Road 24 between State Highway 31 and Farm-to-Market Road 2767, Smith County, Texas (the "Facility") that has approximately 86 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and Mr. Neely agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Neely is subject to the Commission's jurisdiction.
3. Mr. Neely received notice of the violations alleged in Section II ("Allegations") on or about December 5, 2006.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Neely of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Seven Hundred Eighty-Five Dollars (\$1,785) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Neely has paid One Hundred Twenty Eight Dollars (\$128) of the administrative penalty and Three Hundred Fifty-Seven Dollars (\$357) is deferred contingent upon Mr. Neely's timely and satisfactory compliance with all the terms of this Agreed Order. If Mr. Neely fails to timely and satisfactorily comply with all requirements of this Agreed Order,



including the payment schedule. The Executive Director may require Mr. Neely to pay all or part of the deferred penalty. The remaining amount of One Thousand Three Hundred Dollars (\$1,300) of the administrative penalty shall be payable in 13 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Neely fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Neely to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Neely to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Mr. Neely 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 Mr. Neely implemented the following corrective measures:
  - a. Submitted documentation demonstrating that an inline air filter has been installed at the Facility, as documented in an invoice dated January 3, 2007; and
  - b. Submitted documentation providing compliance with the pump capacity requirement for the Facility, as documented in a receipt dated January 11, 2007.
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 Mr. Neely 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, Mr. Neely is alleged to have:

1. Failed to maintain copies of customer service inspection reports that can be made available to Commission personnel at the time of investigations, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(E)(iv), as documented during an investigation conducted on October 10, 2006.



2. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH AND SAFETY CODE § 341.0315(c), as documented during an investigation conducted on October 10, 2006.
3. Failed to compile and maintain a facility plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(1), as documented during an investigation conducted on October 10, 2006.
4. Failed to equip the air compressor line with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(3), as documented during an investigation conducted on October 10, 2006.
5. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(5)(A), as documented during an investigation conducted on October 10, 2006.
6. Failed to maintain an up-to-date chemical and microbiological monitoring plan for the Facility that identifies all locations where routine sampling for microbial contaminants will be conducted, in violation of 30 TEX. ADMIN. CODE § 290.121(b), as documented during an investigation conducted on October 10, 2006.
7. Failed to maintain on file and make available an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2), as documented during an investigation conducted on October 10, 2006.
8. Failed to provide a sanitary control easements or an approved exception to the easement requirement that covers the land within 150 feet of the water system's two wells, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on October 10, 2006.
9. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Commission each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4), as documented during an investigation conducted on October 10, 2006.

### III. DENIALS

Mr. Neely generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Neely pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Neely's compliance with all the terms and conditions set forth in this Agreed Order resolve only the

The information contained in this document is confidential and intended only for the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

This document contains confidential information. It is intended only for the use of the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

The information contained in this document is confidential and intended only for the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

This document contains confidential information. It is intended only for the use of the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

The information contained in this document is confidential and intended only for the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

This document contains confidential information. It is intended only for the use of the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

The information contained in this document is confidential and intended only for the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

This document contains confidential information. It is intended only for the use of the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

The information contained in this document is confidential and intended only for the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

This document contains confidential information. It is intended only for the use of the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

The information contained in this document is confidential and intended only for the individual named. If you have received this document in error, please notify the sender immediately. This information is not to be distributed, copied, or used for any purpose other than that intended.

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: Jack Neely dba Heights Water Company, Docket No. 2006-2256-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 Mr. Neely shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order, Mr. Neely shall:
    - i. Begin completing and maintain copies of service inspection certifications prior to providing continuous water service to new construction, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - ii. Begin weekly monitoring of the disinfectant residual at representative locations throughout the distribution system in accordance with the Facility's monitoring plan, as required by 30 TEX. ADMIN. CODE § 290.110;
    - iii. Begin maintaining an up-to-date chemical and microbiological monitoring plan for the Facility that identifies all locations where routine sampling for microbial contaminants is conducted, in accordance with 30 TEX. ADMIN. CODE § 290.121; and
    - iv. Prepare and begin submitting DLQORs to the Commission in a timely manner, in accordance with 30 TEX. ADMIN. CODE § 290.110.
  - b. Within 25 days after the effective date after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.f., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.
  - c. Within 30 days after the effective date of this Agreed Order:
    - i. Compile and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
    - ii. Create and begin maintaining an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - d. Within 45 days after the effective date after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.f., and include

The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes the need for transparency and accountability in all financial dealings.

### Financial Reporting and Accountability

This section outlines the various methods used to collect and analyze data, ensuring that the information is reliable and valid. It also discusses the importance of regular reporting and communication with stakeholders.

The document further details the processes involved in data collection, including the use of surveys, interviews, and focus groups. It highlights the need for careful planning and execution to ensure that the data collected is representative and unbiased.

In addition, the text discusses the importance of data security and privacy, particularly in the context of handling sensitive information. It provides guidelines for ensuring that data is stored and transmitted securely.

The document also addresses the challenges of data analysis, such as identifying patterns and trends in large datasets. It suggests using advanced statistical techniques and software tools to facilitate this process.

Finally, the text discusses the importance of interpreting the results of the analysis and communicating them effectively. It emphasizes the need for clear and concise reporting that highlights the key findings and their implications.

The document concludes by reiterating the importance of maintaining high standards of accuracy and integrity throughout the entire process. It encourages ongoing evaluation and improvement of the data collection and analysis methods.

In summary, this document provides a comprehensive overview of the data collection and analysis process, from initial planning to final reporting. It offers practical advice and best practices to ensure that the data collected is of high quality and that the results are accurately interpreted and communicated.

The document is intended to serve as a guide for anyone involved in data collection and analysis, whether in a research or business context. It provides a clear framework for understanding the various steps involved and the importance of each step.

For more information or to request a copy of this document, please contact the author at [contact information].

supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.

- e. Within 90 days after the effective date of this Agreed Order, obtain a sanitary control easement or an exception to the easement requirement that covers the land within 150 feet of both wells located at the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- f. Within 105 days after the effective date after the effective date of this Agreed Order, submit written certification as described below, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.e. 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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Neely. Mr. Neely 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 Mr. Neely shall be made in writing to the Executive Director. Extensions are not effective until Mr. Neely receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

THE UNIVERSITY OF CHICAGO  
LIBRARY

5. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Neely 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 Mr. Neely, or three days after the date on which the Commission mails notice of the Order to Mr. Neely, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Page 10 of 10  
Date: 10/10/2010  
Time: 10:10:10 AM

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for ensuring the integrity and reliability of financial data. This section also outlines the various methods used to collect and analyze data, highlighting the need for consistency and precision in all reporting.

The second part of the document focuses on the specific procedures for data collection and analysis. It details the steps involved in gathering information from various sources, including interviews, surveys, and archival records. The text also discusses the challenges associated with data collection and offers practical solutions to ensure that the data is both accurate and representative of the population being studied.

The final part of the document provides a summary of the findings and conclusions drawn from the study. It discusses the implications of the research and offers recommendations for future studies. The text concludes by emphasizing the importance of ongoing research and the need to stay current in the field of data analysis and reporting.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
For the Executive Director

6/27/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Jack Neely  
\_\_\_\_\_  
Signature

2/20/07  
\_\_\_\_\_  
Date

Jack Neely  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Jack Neely dba Heights Water Company

Owner  
\_\_\_\_\_  
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.

10/10/10

10/10/10

10/10/10

10/10/10

10/10/10

10/10/10

10/10/10

10/10/10

10/10/10