

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0574-PWS-E **TCEQ ID:** RN101386605 **CASE NO.:** 33150
RESPONDENT NAME: City of Megargel

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|----------------------------------------------------------------------|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input checked="" type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input checked="" type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: City of Megargel, 902 Cedar Street, Megargel, Archer County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one pending enforcement action regarding this facility location, Docket No. 2007-0130-PWS-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 1, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: The Honorable Danny Fails, Mayor, City of Megargel, P.O. Box 31, Megargel, Texas 76370 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 7, 2007</p> <p>Date of NOVs Relating to this Case: January 11, May 19, June 2, July 7, July 20, and November 10, 2006, and January 17 and 30, 2007</p> <p>Background Facts: This was a routine record review. Two violations were documented.</p> <p>WATER 1) Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"). [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. 2) Failure to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5") [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> | <p>Total Assessed: \$1,409</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$109 (remaining \$1,300 due in 13 monthly payments of \$100 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent received three repeated enforcement actions over the prior five year period for the same violations.</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order:</p> <p>i. Return to compliance with the running annual average MCL for TTHM; and</p> <p>ii. Return to compliance with the running annual average MCL for HAA5.</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ
DATES

| | | | | | |
|----------|-------------|-----------|-------------|---------|-------------|
| Assigned | 12-Mar-2007 | Screening | 21-Mar-2007 | EPA Due | 30-Nov-2006 |
| PCW | 21-Mar-2007 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|----------------------|------------------|--------------------|-------|
| Respondent | City of Megargel | | |
| Reg. Ent. Ref. No. | RN101386605 | | |
| Facility/Site Region | 3-Abilene | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|---------------------------------|---------------------|-------------------|-------------------|
| Enf./Case ID No. | 33150 | No. of Violations | 2 |
| Docket No. | 2007-0574-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Enf. Coordinator | Amy Martin |
| 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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes: Enhancement recommended due to nine Notices of Violation ("NOVs") for violations that are same or similar and nine NOVs for violations that are not same or similar.

Culpability Enhancement Subtotal 4

Notes: The Respondent was issued an alert letter for haloacetic acids on July 6, 2005 and an alert letter for trihalomethanes on July 11, 2005.

Good Faith Effort to Comply Reduction Subtotal 5

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

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

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes:

PAYABLE PENALTY

Screening Date 21-Mar-2007

Docket No. 2007-0574-PWS-E

PCW

Respondent City of Megargel

Policy Revision 2 (September 2002)

Case ID No. 33150

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101386605

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 9 | 45% |
| | Other written NOVs | 9 | 18% |
| 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 judgments 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% |
| <i>Please Enter Yes or No</i> | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 63%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended due to nine Notices of Violation ("NOVs") for violations that are same or similar and nine NOVs for violations that are not same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 63%

Screening Date 21-Mar-2007

Docket No. 2007-0574-PWS-E

PCW

Respondent City of Megargel

Policy Revision 2 (September 2002)

Case ID No. 33150

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101386605

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

Violation Number 1

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

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average concentration of TTHM was 0.090 mg/L for the fourth quarter of 2005, 0.135 mg/L for the first quarter of 2006, 0.136 mg/L for the second quarter of 2006, 0.196 mg/L for the third quarter of 2006, and 0.210 mg/L for the fourth quarter of 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | x | | 25% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes Exceeding the MCL for TTHM exposed the customers of the water supply to a significant amount of contaminants.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 452

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

Violation Base Penalty \$500

Two annual events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$340

Violation Final Penalty Total \$939

This violation Final Assessed Penalty (adjusted for limits) \$939

Economic Benefit Worksheet

Respondent City of Megargel
Case ID No. 33150
Reg. Ent. Reference No. RN101386605
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 | | | | 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) | \$2,500 | 11-Jan-2006 | 30-Sep-2008 | 2.7 | \$340 | n/a | \$340 |

Notes for DELAYED costs

Estimated cost to implement an alternative method of disinfection. The Date Required is the date the exceedances were first discovered. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$340

Screening Date 21-Mar-2007

Docket No. 2007-0574-PWS-E

PCW

Respondent City of Megargel

Policy Revision 2 (September 2002)

Case ID No. 33150

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101386605

Media [Statute] Public Water Supply

Enf. Coordinator Amy Martin

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5") based on a running annual average. Specifically, the running annual average concentration of HAA5 was 0.067 mg/L for the first quarter of 2006, 0.073 mg/L for the second quarter of 2006, 0.078 mg/L for the third quarter of 2006, and 0.080 mg/L for the fourth quarter of 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | x | | 25% |
| Potential | | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes Exceeding the MCL for HAA5 exposed the customers of the water supply to a significant amount of contaminants.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 361 Number of violation days

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

Violation Base Penalty \$250

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$470

This violation Final Assessed Penalty (adjusted for limits) \$470

Economic Benefit Worksheet

Respondent City of Megargel
Case ID No. 33150
Reg. Ent. Reference No. RN101386605
Media Public Water Supply
Violation No. 2

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

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

See Violation No. 1.

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

\$0

TOTAL

\$0

Compliance History

| | | | | |
|-----------------------------------------------|-------------------------------------------------|------------------|-------------------------|--------------|
| Customer/Respondent/Owner-Operator: | CN600341184 | City of Megargel | Classification: AVERAGE | Rating: 0.16 |
| Regulated Entity: | RN101386605 | CITY OF MEGARGEL | Classification: | Site Rating: |
| ID Number(s): | PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | 0050012 | |
| | WATER LICENSING | LICENSE | 0050012 | |
| Location: | 902 CEDAR ST, MEGARGEL, ARCHER COUNTY, TX 76370 | | | |
| TCEQ Region: | REGION 03 - ABILENE | | | |
| Date Compliance History Prepared: | March 14, 2007 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | March 13, 2002 to March 13, 2007 | | | |

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

Name: Amy Martin Phone: 512-239-2540

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 04/04/2003 (31442)
- 2 08/19/2004 (291370)
- 3 10/08/2004 (337275)
- 4 03/24/2005 (375465)
- 5 07/26/2005 (401848)
- 6 01/11/2006 (539821)
- 7 05/19/2006 (540510)
- 8 05/24/2006 (463812)
- 9 06/02/2006 (540427)
- 10 07/07/2006 (540518)
- 11 07/20/2006 (540524)
- 12 11/10/2006 (540788)
- 13 11/10/2006 (540526)
- 14 12/19/2006 (531447)
- 15 12/28/2006 (534746)
- 16 12/28/2006 (534750)
- 17 12/28/2006 (534752)
- 18 12/28/2006 (534743)
- 19 01/04/2007 (535450)
- 20 01/17/2007 (540810)
- 21 01/30/2007 (540826)
- 22 03/06/2007 (542730)

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

- | | | | | |
|--------------|--------------------------------------------------|---------|-----------------|-------|
| Date: | 04/04/2003 | (31442) | | |
| Self Report? | NO | | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A) | | | |
| Description: | FAILURE TO PROVIDE ADEQUATE CERTIFIED PERSONNEL. | | | |
| Self Report? | NO | | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(s)(1) | | | |
| Description: | FAILURE TO CALIBRATE FLOW MEASURING DEVICES. | | | |

| | | | |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------|
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(m) | | |
| Description: | FAILURE TO MAINTAIN FILTER BACKWASH LAGOONS. | | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.118(b) | | |
| Description: | FAILURE TO MEET SECONDARY CONSTITUENT LEVEL. | | |
| Date | 08/19/2004 | (291370) | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A) | | |
| Description: | FAILURE TO PROVIDE ADEQUATE CERTIFIED PERSONNEL. | | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(s)(1) | | |
| Description: | FAILURE TO CALIBRATE FLOW MEASURING DEVICES. | | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.118(b) | | |
| Description: | FAILURE TO MEET SECONDARY CONSTITUENT LEVEL. | | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.121(a) | | |
| Description: | FAILURE TO COMPLETE SYSTEM MONITORING PLAN. | | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B) | | |
| Description: | FAILURE TO MAINTAIN LABORATORY CALIBRATION RECORDS. | | |
| Date | 07/26/2005 | (401848) | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.110(c)(1)(B) | | |
| Description: | FAILURE TO COMPLETE SMORS IN ACCORDANCE WITH TCEQ APPROVED DISINFECTION PARAMETERS | | |
| Date | 10/26/2005 | (531447) | |
| Self Report? | NO | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(i) | | |
| Description: | the City did not maintain the turbidity level of the combined filter effluent so as not to exceed 1.0 Nephelometric Turbidity Unit ("NTU"). Specifically, the turbidity level of the combined filter effluent was greater than 1.0 NTU for one day in June 2005. | | |
| Date | 10/26/2005 | (534746) | |
| Self Report? | NO | Classification | Major |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.111(f)(4) | | |
| Description: | the City failed to maintain the turbidity level of the combined filter effluent below 5.0 NTU, indicating an acute treatment violation. Specifically, the turbidity level of the combined filter effluent at the facility was greater than 5.0 NTU for two days in July 2005 and four days in August 2005. | | |
| Date | 10/26/2005 | (534750) | |
| Self Report? | NO | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii) | | |
| Description: | the City did not maintain the turbidity level of the combined filter effluent so as not to exceed 0.3 NTU in at least 95% of the samples tested each month. Specifically, the turbidity levels of the combined filter effluent were less than or equal to the 0.3 NTU limit in 77% of the samples taken in August 2005. | | |
| Date | 10/26/2005 | (534743) | |
| Self Report? | NO | Classification | Major |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.111(f)(4) | | |
| Description: | the City failed to maintain the turbidity level of the combined filter effluent below 5.0 NTU, indicating an acute treatment violation. Specifically, the turbidity level of the combined filter effluent at the facility was greater than 5.0 NTU for two days in July 2005 and four days in August 2005. | | |
| Date | 01/11/2006 | (539821) | |
| Self Report? | NO | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | | |
| Description: | Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2005. | | |
| Date | 05/19/2006 | (540510) | |
| Self Report? | NO | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | | |
| Description: | Violated the maximum contaminant level for trihalomethanes during the first quarter of 2006. | | |
| Date | 05/23/2006 | (463812) | |
| Self Report? | NO | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.110(c)(1)(B) | | |
| Description: | FAILURE TO COMPLETE SMORS IN ACCORDANCE WITH TCEQ APPROVED DISINFECTION PARAMETERS | | |
| Self Report? | NO | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(C) | | |
| Description: | FAILURE TO PROVIDE SURFACE PLANT WITH AUTOMATIC SHUTDOWN AND | | |

ALARMS.

| | | | | |
|--------------|------------------------------------------------------------------------------------------------------------------|----------|----------------|----------|
| Date | 06/02/2006 | (540427) | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(5) | | | |
| Description: | Violated the maximum contaminant level for haloacetic acids during the first quarter of 2006. | | | |
| Date | 07/07/2006 | (540518) | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(5) | | | |
| Description: | Violated the maximum contaminant level for haloacetic acids during the second quarter of 2006. | | | |
| Date | 07/20/2006 | (540524) | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | | | |
| Description: | Violated the maximum contaminant level for trihalomethanes during the second quarter of 2006. | | | |
| Date | 09/01/2006 | (534752) | | |
| Self Report? | NO | | Classification | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.111(f)(2) | | | |
| Description: | the City failed to report the results of the individual filter effluent turbidity test for one day in July 2006. | | | |
| Date | 11/10/2006 | (540526) | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(5) | | | |
| Description: | Violated the maximum contaminant level for haloacetic acids during the third quarter of 2006. | | | |
| Date | 11/10/2006 | (540788) | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | | | |
| Description: | Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006. | | | |
| Date | 01/17/2007 | (540810) | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(5) | | | |
| Description: | Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2006. | | | |
| Date | 01/30/2007 | (540826) | | |
| Self Report? | NO | | Classification | Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.113(f)(4) | | | |
| Description: | Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2006. | | | |

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MEGARGEL
RN101386605**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0574-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding City of Megargel (“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 presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a public water supply at 902 Cedar Street in Megargel, Archer County, Texas (the “Facility”) that has approximately 163 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on February 7, 2007, TCEQ staff documented that the City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average for TTHM was 0.090 mg/L for the fourth quarter of 2005, 0.135 mg/L for the first quarter of 2006, 0.136 mg/L for the second quarter of 2006, 0.196 mg/L for the third quarter of 2006, and 0.210 mg/L for the fourth quarter of 2006.
3. During a record review on February 7, 2007, TCEQ staff documented that the City did not comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5") based on a running annual average. Specifically, the running annual average for HAA5 was 0.067 mg/L for the first quarter of 2006, 0.073 mg/L for the second quarter of 2006, 0.078 mg/L for the third quarter of 2006, and 0.080 mg/L for the fourth quarter of 2006.
4. The City received notices of the violations dated January 11, May 19, June 2, July 7, July 20, and November 10, 2006, and January 17 and 30, 2007.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the City failed to comply with the MCL of 0.080 mg/L for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the City failed to comply with the MCL of 0.060 mg/L for HAA5, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand Four Hundred Nine Dollars (\$1,409) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The City has paid One Hundred Nine Dollars (\$109) of the administrative 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 the City 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 the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of One Thousand Four Hundred Nine Dollars (\$1,409) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Megargel, Docket No. 2007-0574-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The City shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order:
 - i. Return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - ii. Return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113.
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is

true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Public Water Supply Section, Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by

facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sullivan
For the Executive Director

8/20/2007
Date

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

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

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

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

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

Danny Fails
Signature

4-25-07
Date

DANNY FAILS
Name (Printed or typed)
Authorized Representative of
City of Megargel

Mayor
Title

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

