

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0708-PWS-E **TCEQ ID:** RN101404002 **CASE NO.:** 33399
RESPONDENT NAME: City of Leona

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 Leona, 153 Farm-to-Market Road 977 East, Leon 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 no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 22, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. Steve Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: The Honorable Robert D. Nash, Mayor, City of Leona, 2031 Highway 977 West, Leona, Texas 75850 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 checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 5, 2007</p> <p>Date of NOE Relating to this Case: April 30, 2007 (NOE)</p> <p>Background Facts: This was a routine scheduled investigation for compliance with the drinking water program. Five significant program violations were observed.</p> <p>WATER</p> <p>1) Failure to equip all air compressor injection lines for pressure tanks with a filter to prevent compressor lubricants or other contaminants from entering the tank [30 TEX. ADMIN. CODE § 290.43(d)(3)].</p> <p>2) Failure to ensure that livestock in pastures are prohibited from within 50 feet of a public drinking water supply well [30 TEX. ADMIN. CODE § 290.41(c)(1)(D)].</p> <p>3) Failure to provide a properly sealed overflow pipe flap valve assembly on the ground storage tank [30 TEX. ADMIN. CODE § 290.43(c)(3) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iii.].</p> <p>4) Failure to provide water system records to be reviewed at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iv.].</p> <p>5) Failure to provide a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(1)].</p>	<p>Total Assessed: \$2,437</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,437</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: This is a Findings Order because the City had a notice of violation of a Commission order, Docket No. 2003-1424-PWS-E.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i. Provide the air compressor injection line with a filter to prevent compressor lubricants or other contaminants from entering the pressure tank;</p> <p>ii. Ensure that livestock are prohibited from within 50 feet of the public water supply well;</p> <p>iii. Provide a properly sealed overflow pipe flap valve assembly on the ground storage tank;</p> <p>iv. Develop and begin maintaining records for bacteriological sample results, monthly operating reports, customer service agreements, a plumbing ordinance, and provide a sanitary control easement for the well; and</p> <p>v. Compile and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference.</p> <p>b) Within 45 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 Nos. a.i. through a.v. The certification shall be notarized by a State of Texas Notary Public.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES	Assigned	30-Apr-2007	Screening	3-May-2007	EPA Due	
	PCW	2-May-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Leona		
Reg. Ent. Ref. No.	RN101404002		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33399	No. of Violations	5
Docket No.	2007-0708-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Christopher Miller
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25% Enhancement Subtotals 2, 3, & 7

Notes: Enhancement due to one previous Notice of Violation ("NOV") and one previous Agreed Order containing a denial of liability.

Culpability No 0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5

	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.

Total EB Amounts 0% Enhancement* Subtotal 6

Approx. Cost of Compliance *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 0% Reduction Adjustment

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 3-May-2007

Docket No. 2007-0708-PWS-E

PCW

Respondent City of Leona

Policy Revision 2 (September 2002)

Case ID No. 33399

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

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)	1	20%
	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) 25%

>> 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

Enhancement due to one previous Notice of Violation ("NOV") and one previous Agreed Order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 3-May-2007

Docket No. 2007-0708-PWS-E

PCW

Respondent City of Leona

Policy Revision 2 (September 2002)

Case ID No. 33399

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 1

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

Violation Description Failed to equip all air compressor injection lines for pressure tanks with a filter to prevent compressor lubricants or other contaminants from entering the tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential		x		10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%
Matrix Notes	Failure to equip the air injection line with a filter could expose customers of the water supply to a significant amount of pollutants which would not exceed levels protective of human health.				

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 27

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

Violation Base Penalty \$100

One quarterly event is recommended from the April 5, 2007 investigation date to the May 3, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$125

This violation Final Assessed Penalty (adjusted for limits) \$125

Economic Benefit Worksheet

Respondent: City of Leona
Case ID No.: 33399
Reg. Ent. Reference No.: RN101404002
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$300	5-Apr-2007	29-Jan-2008	0.8	\$1	\$16	\$17
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly equip the air injection line. Date required is the date of the investigation. Final date is the estimated date of compliance.

Avoided Costs

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

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

There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$300

TOTAL \$17

Screening Date 3-May-2007

Docket No. 2007-0708-PWS-E

PCW

Respondent City of Leona

Policy Revision 2 (September 2002)

Case ID No. 33399

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 2

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

Violation Description

Failed to ensure that livestock in pastures are prohibited from within 50 feet of a public drinking water supply well. Specifically, at the time of the investigation, livestock were observed to be within 10 feet of the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to prevent livestock from entering within 50 feet of the well could expose customers of the water supply to a significant amount of pollutants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 27

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

Violation Base Penalty \$100

One quarterly event is recommended from the April 5, 2007 investigation date to the May 3, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$125

This violation Final Assessed Penalty (adjusted for limits) \$125

Economic Benefit Worksheet

Respondent: City of Leona
 Case ID No: 33399
 Reg. Ent. Reference No: RN101404002
 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
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)	\$500	5-Apr-2007	29-Jan-2008	0.8	\$20	n/a	\$20

Notes for DELAYED costs

Estimated cost to prevent pasture livestock from entering within 50 feet of the well. Date required is the date of the investigation. Final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$500

TOTAL \$20

Screening Date 3-May-2007

Docket No. 2007-0708-PWS-E

PCW

Respondent City of Leona

Policy Revision 2 (September 2002)

Case ID No. 33399

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(3) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iii.

Violation Description

Failed to provide a properly sealed overflow pipe flap valve assembly on the ground storage tank. Specifically, at the time of the investigation, the overflow pipe valve assembly had a gap greater than 1/16 of an inch.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide a proper overflow pipe flap valve assembly could expose customers of the water supply to a significant amount of pollutants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 6

901 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$1,500

Six semiannual events are recommended from the effective date of the Agreed Order, October 13, 2004, to the date of screening, May 3, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$49

Violation Final Penalty Total \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent: City of Leona
Case ID No.: 33399
Reg. Ent. Reference No.: RN101404002
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
<small>No commas or \$</small>							

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				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)	\$300	13-Oct-2004	28-Jan-2008	3.3	\$49	n/a	\$49

Notes for DELAYED costs

Estimated cost to properly seal the overflow pipe flap valve assembly, calculated from the effective date of Agreed Order Docket No. 2003-1424-PWS-E, 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

There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$300

TOTAL \$49

Screening Date 3-May-2007

Docket No. 2007-0708-PWS-E

PCW

Respondent City of Leona

Policy Revision 2 (September 2002)

Case ID No. 33399

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iv.

Violation Description

Failed to provide water system records to be reviewed at the time of the investigation. Specifically, at the time of the investigation, the Facility did not have bacteriological sample results, monthly operating reports, customer service agreements, a plumbing ordinance, or a sanitary control easement for the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	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 3

901 Number of violation days

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

Violation Base Penalty \$150

Three annual events are recommended from the effective date of the Agreed Order, October 13, 2004, to the date of screening, May 3, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$187

This violation Final Assessed Penalty (adjusted for limits) \$187

Economic Benefit Worksheet

Respondent: City of Leona
 Case ID No.: 33399
 Reg. Ent. Reference No.: RN101404002
 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
<small>No commas or \$</small>							

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				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)	\$1,000	13-Oct-2004	29-Jan-2008	3.3	\$165	n/a	\$165

Notes for DELAYED costs

Estimated cost to create and maintain the required reports, calculated from the effective date of Agreed Order Docket No. 2003-1424-PWS-E, 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

There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$1,000

TOTAL \$165

Screening Date 3-May-2007

Docket No. 2007-0708-PWS-E

PCW

Respondent City of Leona

Policy Revision 2 (September 2002)

Case ID No. 33399

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Miller

Violation Number 5

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

Violation Description Failed to provide a thorough and up-to-date 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

27 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 \$20

Violation Final Penalty Total \$125

This violation Final Assessed Penalty (adjusted for limits) \$125

Economic Benefit Worksheet

Respondent: City of Leona
Case ID No.: 33399
Reg. Ent. Reference No.: RN101404002
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
Item Description: No commas or \$							

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				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)	\$500	5-Apr-2007	29-Jan-2008	0.8	\$20	n/a	\$20

Notes for DELAYED costs

Estimated cost to create and maintain an up-to-date plant operations manual. Date required is the date of the investigation. Final date is the estimated date of compliance.

Avoided Costs

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

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

There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$500

TOTAL \$20

Compliance History

Customer/Respondent/Owner-Operator: CN600738363 City of Leona Classification: Rating:
Regulated Entity: RN101404002 CITY OF LEONA Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1450008
WATER LICENSING LICENSE 1450008
Location: 153 FM 977 E, LEON COUNTY, TX, 75850
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: April 30, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 30, 2002 to April 30, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Christopher Miller Phone: 512-239-6580

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 10/25/2004 ADMINORDER 2003-1424-PWS-E
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)
Description: Failure to properly seal the hypochlorination solution container.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failure to adopt an adequate plumbing ordinance, regulations, or service agreement.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 288, SubChapter B 288.20(a)[G]
30 TAC Chapter 288, SubChapter C 288.30(3)(B)

Description: Failure to provide a copy of an adopted drought contingency plan.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)[G]
Description: Failure to provide water system records.
Failure to maintain records.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide an overflow pipe flap valve assembly on the ground storage tank with a good mechanical seal.

Classification: Moderate

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

Description: Failure to maintain an intruder-resistant fence in order to protect the well, pressure tanks, and ground storage tanks.

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

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 07/25/2002 (1437)
- 2 09/05/2006 (497092)
- 3 04/27/2007 (556328)

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

Date 08/30/2006 (497092)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system.

Self Report? NO Classification Moderate

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

Description: Failure to provide water system records.
Failure to maintain records.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to provide an overflow pipe flap valve assembly on the ground storage tank with a good mechanical seal.

Self Report? NO Classification Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Rqmt Prov: ORDER Ordering Provisions 2.a.-2.b.

Description: Failure to comply with the Ordering Provisions of Commission Order 2003-1424-PWS-E.

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 LEONA
RN101404002

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2007-0708-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 Leona ("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 153 Farm-to-Market Road 977 East, Leon County, Texas (the "Facility") that has approximately 106 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on April 5, 2007, TCEQ staff documented that the City did not equip the air compressor injection line to the pressure tank with a filter.
3. During an investigation conducted on April 5, 2007, TCEQ staff documented that the City allowed livestock to come within 10 feet of a public water supply well.
4. During an investigation conducted on April 5, 2007, TCEQ staff documented that the City did not provide a properly sealed overflow pipe flap valve assembly on the ground storage tank. Specifically, the assembly had a gap greater than 1/16 of an inch.
5. During an investigation conducted on April 5, 2007, TCEQ staff documented that the City did not have bacteriological sample results, monthly operating reports, customer service agreements, a plumbing ordinance, or a sanitary control easement for the well available for review at the time of the investigation.
6. During an investigation conducted on April 5, 2007, TCEQ staff documented that the City did not have a thorough and up-to-date plant operations manual.
7. During an investigation conducted on April 5, 2007, TCEQ staff documented that the City did not comply with TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision Nos. 2.a.iii. and 2.a.iv.
8. The City received notice of the violations on or about May 5, 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 equip all air compressor injection lines for pressure tanks with a filter to prevent compressor lubricants or other contaminants from entering the pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(3).
3. As evidenced by Findings of Fact No. 3, the City failed to ensure that livestock in pastures are prohibited from within 50 feet of a public drinking water supply well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(D).
4. As evidenced by Findings of Fact Nos. 4 and 7, the City failed to provide a properly sealed overflow pipe flap valve assembly on the ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iii.

5. As evidenced by Findings of Fact Nos. 5 and 7, the City failed to provide water system records to be reviewed at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iv.
6. As evidenced by Findings of Fact No. 6, the City failed to provide a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(1).
7. 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.
8. An administrative penalty in the amount of Two Thousand Four Hundred Thirty-Seven Dollars (\$2,437) 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 the Two Thousand Four Hundred Thirty-Seven Dollar (\$2,437) administrative penalty.

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 Two Thousand Four Hundred Thirty-Seven Dollars (\$2,437) as set forth in Section II, Paragraph 8 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 Leona, Docket No. 2007-0708-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 30 days after the effective date of this Agreed Order;
 - i. Provide the air compressor injection line with a filter to prevent compressor lubricants or other contaminants from entering the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.43;

- ii. Ensure that livestock are prohibited from within 50 feet of the public water supply well, in accordance with 30 TEX. ADMIN. CODE § 290.41;
 - iii. Provide a properly sealed overflow pipe flap valve assembly on the ground storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.43;
 - iv. Develop and begin maintaining records for bacteriological sample results, monthly operating reports, customer service agreements, a plumbing ordinance, and provide a sanitary control easement for the well, in accordance with TEX. ADMIN. CODE § 290.46; and
 - v. 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.
- b. Within 45 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 Nos. 2.a.i. through 2.a.v. 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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.

RECEIVED

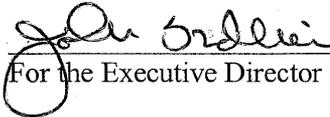
AUG 10 2007

ENFORCEMENT DIVISION

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 10/13/07

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Leona. I am authorized to agree to the attached Agreed Order on behalf of City of Leona, 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 Leona 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.



Signature

Date 8-9-07

Robert D. Nash

Name (Printed or typed)
Authorized Representative of
City of Leona

Title 8-9-07 Mayor

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.

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