

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0808-PWS-E **TCEQ ID:** RN101404317 **CASE NO.:** 35891
RESPONDENT NAME: City of Troup

ORDER TYPE:		
<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	
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 Troup, Highway 110 South, Troup, Smith County</p> <p>TYPE OF OPERATION: Municipal 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 September 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-13, 210-403-4033; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable John Whitsell, Mayor, City of Troup, P.O. Box 637, Troup, Texas 75789 Mr. Jon W. Hall, Director of Public Works, City of Troup, P.O. Box 637, Troup, Texas 75789 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 2008 SEP 22 AM 11:26
 CHIEF CLERK'S OFFICE

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input 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: February 29, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 6, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to maintain the Facility's storage tanks in strict accordance with current American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(8)].</p> <p>2) Failure to provide an elevated storage capacity of 100 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") at all points within the distribution network at flow rates of at least 1.5 gallons per minute per connection [30 TEX. ADMIN. CODE § 290.44(d)].</p> <p>4) Failure to install a backflow prevention assembly or an air gap at all residences and establishments where an actual or potential contamination hazard exist [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].</p> <p>5) Failure to test all backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and to certify that they are to be operating within specifications [30 TEX. ADMIN. CODE § 290.44(h)(4)].</p>	<p>Total Assessed: \$3,815</p> <p>Total Deferred: \$763 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,052</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On July 11, 2008, submitted documentation indicating that the Westwood Nursing and Rehabilitation Center is no longer in business and that an air gap or reduced pressure principle backflow assembly at McElroy Plastics is no longer applicable based on the Customer Service Inspection performed; and</p> <p>b. On July 11, 2008, submitted documentation demonstrating compliance with the backflow assemblies.</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. Refurbish or replace the Bradford Street and the Athena Street Tanks so that the interior and exterior meet AWWA standards;</p> <p>ii. Provide an elevated storage capacity of 100 gallons per connection; and</p> <p>iii. Begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions.</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 April 29, 2008

TCEQ

DATES	Assigned	13-May-2008	Screening	15-May-2008	EPA Due	
	PCW	15-May-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Troup
Reg. Ent. Ref. No.	RN101404317
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35891	No. of Violations	5
Docket No.	2008-0808-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	Enforcement Team 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 9.0% Enhancement **Subtotals 2, 3, & 7**

Notes
The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action and two prior dissimilar NOV's.

Culpability No 0.0% Enhancement **Subtotal 4**

Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0.0% Reduction **Subtotal 5**

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

Notes
The Respondent does not meet the good faith criteria.

Total EB Amounts \$13,966 **Subtotal 6**
Approx. Cost of Compliance \$105,900 **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL 20.0% Reduction **Adjustment**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 15-May-2008

Docket No. 2008-0808-PWS-E

PCW

Respondent City of Troup

Policy Revision 2 (September 2002)

Case ID No. 35891

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101404317

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	2	4%
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) 9%

>> 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

The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action and two prior dissimilar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 9%

Screening Date 15-May-2008 **Docket No.** 2008-0808-PWS-E **PCW**
Respondent City of Troup *Policy Revision 2 (September 2002)*
Case ID No. 35891 *PCW Revision April 29, 2008*
Reg. Ent. Reference No. RN101404317
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Troup
Case ID No. 35891
Reg. Ent. Reference No. RN101404317
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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	\$5,000	29-Feb-2008	1-Jan-2010	1.84	\$31	\$614	\$644
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to make repairs, refurbish, or replace the Bradford Street and Athena Street tanks, 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$644

Screening Date 15-May-2008

Docket No. 2008-0808-PWS-E

PCW

Respondent City of Troup

Policy Revision 2 (September 2002)

Case ID No. 35891

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101404317

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number

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

Violation Description

Failed to provide an elevated storage capacity of 100 gallons per connection. With 971 service connections, the Respondent must provide a minimum elevated tank capacity of 97,100 gallons. However, it was noted that the Respondent currently provides zero gallons of elevated storage, which is a 100% deficiency.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Without sufficient elevated storage capacity, the system's ability to provide a safe and adequate supply of water to the customers could be impaired and could expose customers to a significant amount of contaminants that would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended from the date of the investigation, February 29, 2008, to the date of screening, May 15, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Troup
 Case ID No. 35891
 Reg. Ent. Reference No. RN101404317
 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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$100,000	29-Feb-2008	1-Jan-2010	1.84	\$614	\$12,274	\$12,888
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide an elevated storage capacity of a minimum of 100 gallons per connection, calculated from the date of the investigation documenting the violation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100,000

TOTAL

\$12,888

Screening Date	15-May-2008	Docket No.	2008-0808-PWS-E	PCW
Respondent	City of Troup			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35891			<i>PCW Revision April 29, 2008</i>
Reg. Ent. Reference No.	RN101404317			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			
Violation Number	<input type="text" value="3"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.44(d)"/>			
Violation Description	<input (\"gpm\")="" 1.5="" 32="" all="" and="" at="" athens="" connection.="" distribution="" documented="" duval="" flow="" gallons="" intersection="" investigation,="" it="" least="" minute="" network="" of="" per="" points="" pressure="" psi."="" psi\")="" rates="" specifically,="" that="" the="" time="" type="text" value="Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch (\" was="" within=""/>			
		Base Penalty	<input type="text" value="\$1,000"/>	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="5%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$55"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$55"/>	

Economic Benefit Worksheet

Respondent City of Troup
Case ID No. 35891
Reg. Ent. Reference No. RN101404317
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The costs to increase pressure throughout the system is covered in the economic benefit of violation no. 2.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 15-May-2008 **Docket No.** 2008-0808-PWS-E **PCW**
Respondent City of Troup *Policy Revision 2 (September 2002)*
Case ID No. 35891 *PCW Revision April 29, 2008*
Reg. Ent. Reference No. RN101404317
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Troup
 Case ID No. 35891
 Reg. Ent. Reference No. RN101404317
 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	\$500	29-Feb-2008	11-Jul-2008	0.36	\$1	\$12	\$13
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to install backflow prevention assemblies or air gaps, 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$13

Screening Date 15-May-2008
Respondent City of Troup
Case ID No. 35891
Reg. Ent. Reference No. RN101404317
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal
Violation Number 5

Docket No. 2008-0808-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

Rule Cite(s) 30 Tex. Admin. Code § 290.44(h)(4)
Violation Description Failed to test all backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and to certify that they are operating within specifications. Specifically, at the time of the investigation, it was documented that the backflow prevention assemblies at the Respondent's wastewater plant, Cottle Funeral Home, Troup ISD, and Dr. Hekimian's Clinic had not been tested annually.

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 test backflow prevention assemblies could expose the water system to a significant amount of pollutants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events
 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

Four annual events are recommended (one event per site).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$421

Violation Final Penalty Total \$1,090

This violation Final Assessed Penalty (adjusted for limits) \$1,090

Economic Benefit Worksheet

Respondent City of Troup
Case ID No. 35891
Reg. Ent. Reference No. RN101404317
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$400	28-Feb-2007	29-Feb-2008	1.00	\$20	\$401	\$421
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to test the four backflow prevention assemblies, calculated for the 12 month period proceeding the date of the investigation.

Approx. Cost of Compliance

\$400

TOTAL

\$421

Compliance History

Customer/Respondent/Owner-Operator:	CN600247951	City of Troup	Classification: AVERAGE	Rating: 0.98
Regulated Entity:	RN101404317	CITY OF TROUP	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		2120003
	WATER LICENSING	LICENSE		2120003
Location:	HWY 110 S, TROUP, SMITH COUNTY, TX			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	May 15, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 15, 2003 to May 15, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Epi Villarreal</u>	Phone:	<u>210-403-4033</u>	

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 | 09/08/2006 | (510227) |
| 2 | 05/05/2008 | (641386) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|------------------|---|-----------------|-------|
| Date: 09/08/2006 | (510227) | | |
| Self Report? | NO | Classification: | Major |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C) | | |
| Description: | Failure to maintain the records of tests conducted on backflow prevention assemblies and maintenance reports. The regulated entity must provide these records to commission staff for inspection upon request and retain them for a minimum of three years. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | | |
| Description: | Failure to provide for commission review an approved sanitary control easement, ordinance, deed or exception letter. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J) | | |
| Description: | Failure to provide an adequately sloped well sealing block. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C) | | |
| Description: | Failure to properly install the chlorination room vent fan. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
5A THSC Chapter 341, SubChapter A 341.036 | | |

Description: Failure to maintain storage tanks in according with AWWA standards.
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
 5A THSC Chapter 341, SubChapter A 341.0315
 Description: Failure to provide the minimum elevated storage tank capacity.
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
 Description: Failure to maintain operating records according to standards.
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
 5A THSC Chapter 341, SubChapter A 341.036
 Description: Failure to provide minimum normal operating pressure.
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failure to maintain intruder resistant fences.
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
 Description: Failure to complete a customer service inspection certification for applicable facilities.

Date 11/19/2007 (601007)
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(1)
 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
 Description: Failure to comply with the conditions of a granted exception regarding the use of chloramines.
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)
 Description: Failure to collect and document daily disinfectant residual tests representative of the distribution system.

Date 04/29/2008 (641384)
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(1)
 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
 Description: Failure to comply with the conditions of a granted exception regarding the use of chloramines.
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)
 Description: Failure to collect and document daily disinfectant residual tests representative of the distribution system.

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

2008 OCT 22 11:11:25

CHIEF CLEERNS OFFICE

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CITY OF TROUP RN101404317

§ § § § §

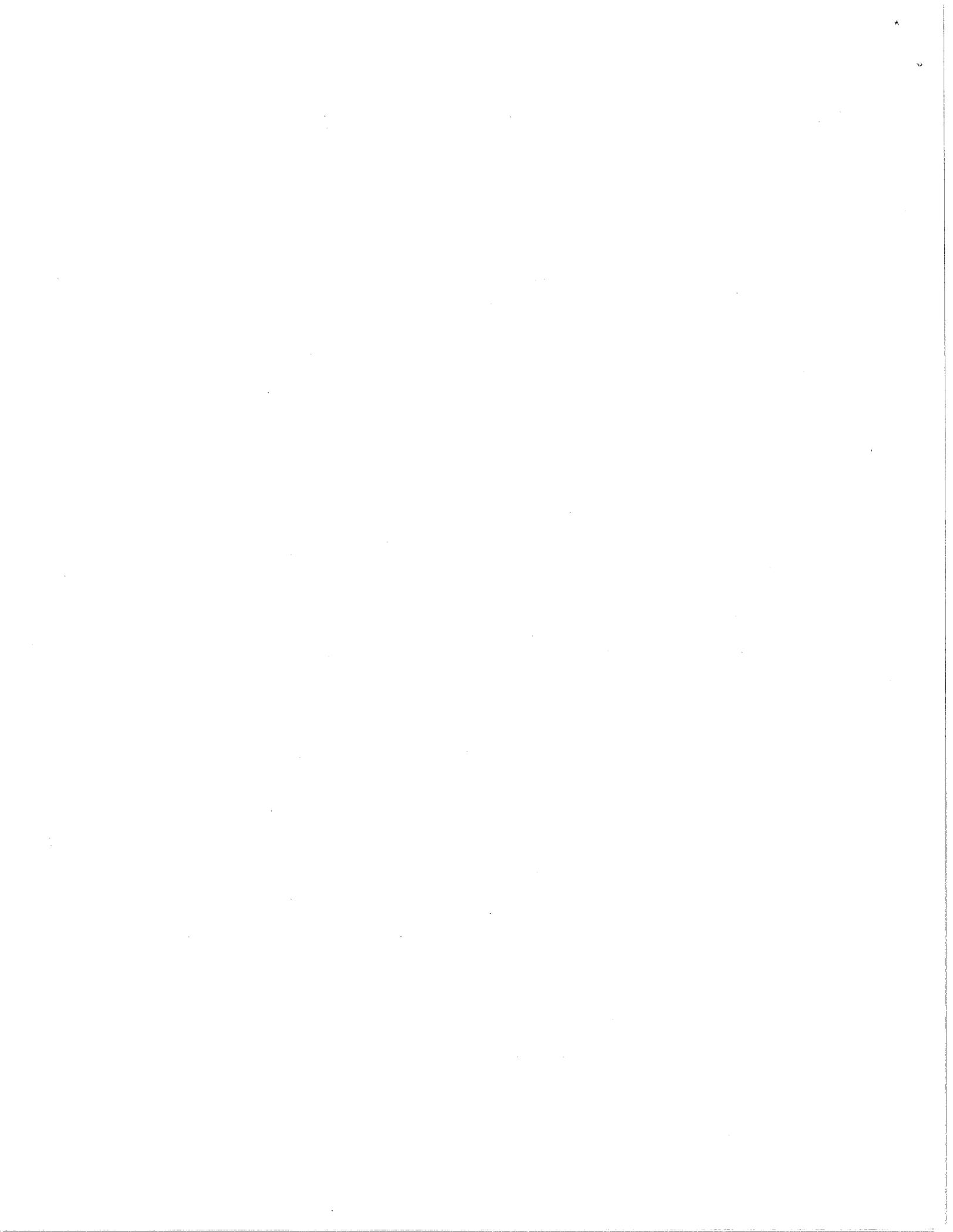
BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0808-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Troup ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

- 1. The City owns and operates a municipal public water supply at Highway 110 South in Troup, Smith County, Texas (the "Facility") that has approximately 971 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about May 11, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Three Thousand Eight Hundred Fifteen Dollars (\$3,815) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Three Thousand Fifty-Two Dollars (\$3,052) of the administrative penalty and Seven Hundred Sixty-Three Dollars (\$763) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the



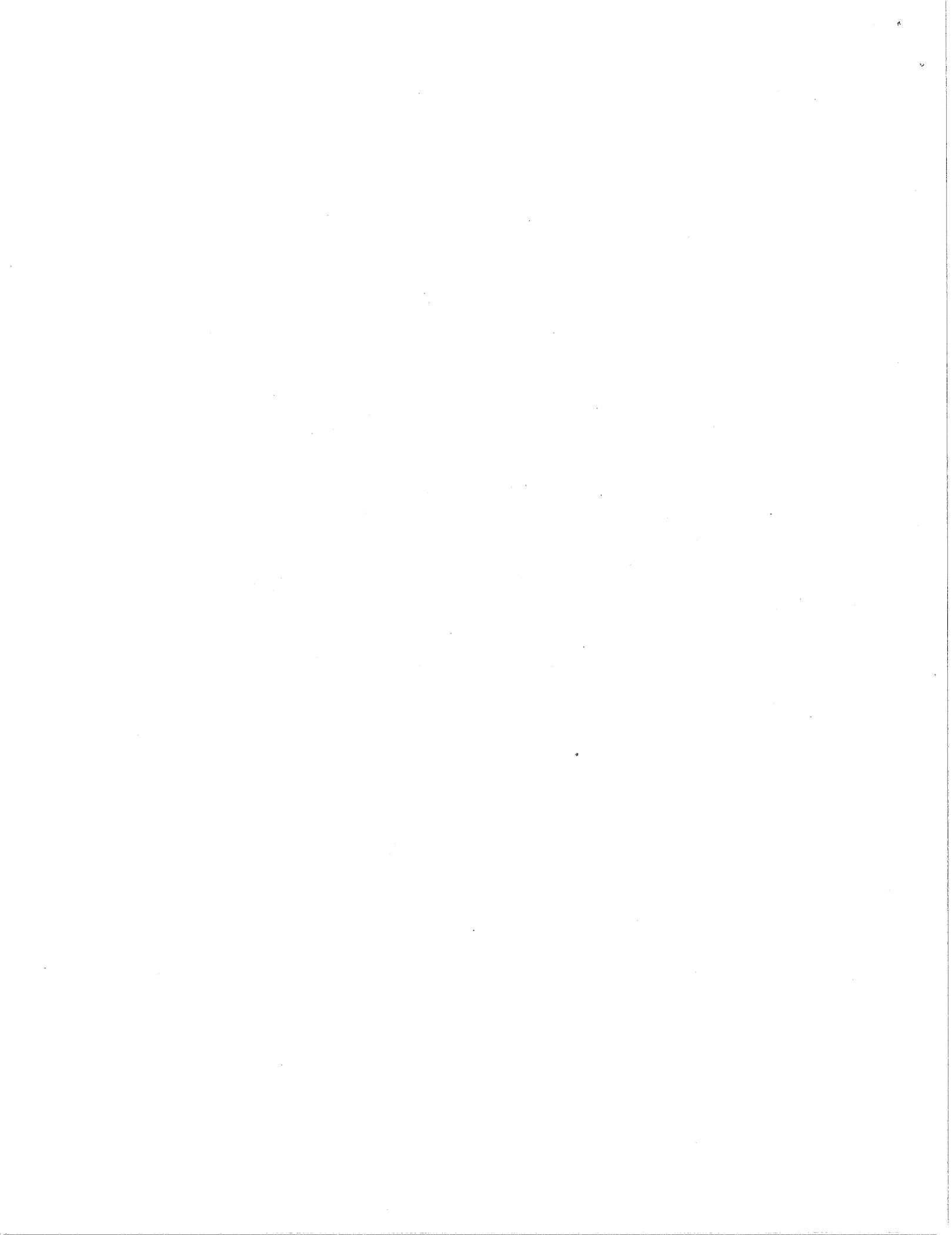
City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. On July 11, 2008, submitted documentation indicating that the Westwood Nursing and Rehabilitation Center is no longer in business and that an air gap or reduced pressure principle backflow assembly at McElroy Plastics is no longer applicable based on the Customer Service Inspection performed; and
 - b. On July 11, 2008, submitted documentation demonstrating that the backflow assemblies had been tested.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to maintain the Facility's storage tanks in strict accordance with current American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8), as documented during an investigation conducted on February 29, 2008.
2. Failed to provide an elevated storage capacity of 100 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on February 29, 2008.
3. Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") at all points within the distribution network at flow rates of at least 1.5 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.44(d), as documented during an investigation conducted on February 29, 2008.



4. Failed to install a backflow prevention assembly or an air gap at all residences and establishments where an actual or potential contamination hazard exist, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A), as documented during an investigation conducted on February 29, 2008.
5. Failed to test all backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and to certify that they are to be operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4), as documented during an investigation conducted on February 29, 2008.

III. DENIALS

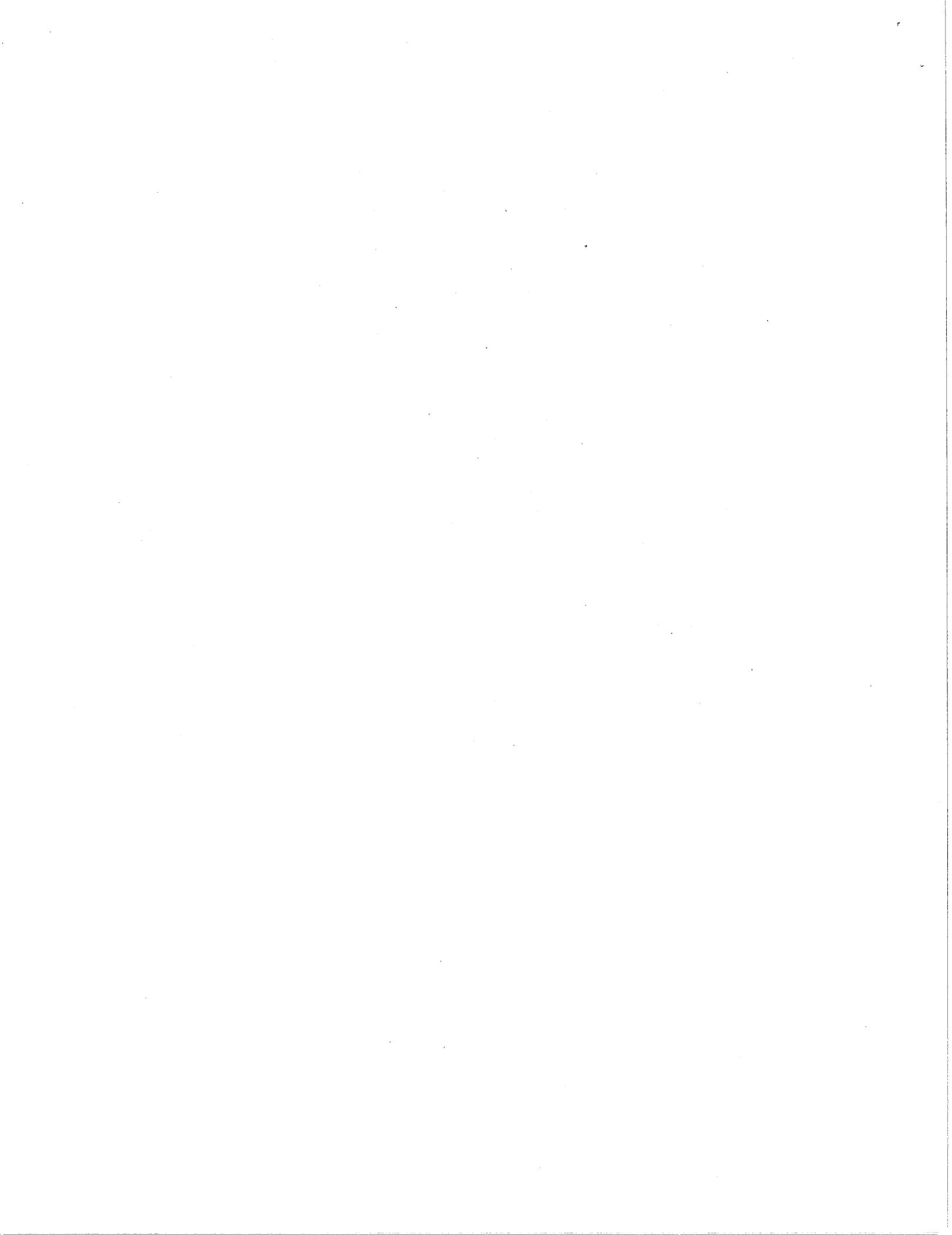
The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Troup, Docket No. 2008-0808-PWS-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order:
 - i. Refurbish or replace the Bradford Street and the Athena Street Tanks so that the interior and exterior meet AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43;
 - ii. Provide an elevated storage capacity of 100 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - iii. Begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions, in accordance with 30 TEX. ADMIN. CODE § 290.44.



- 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 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

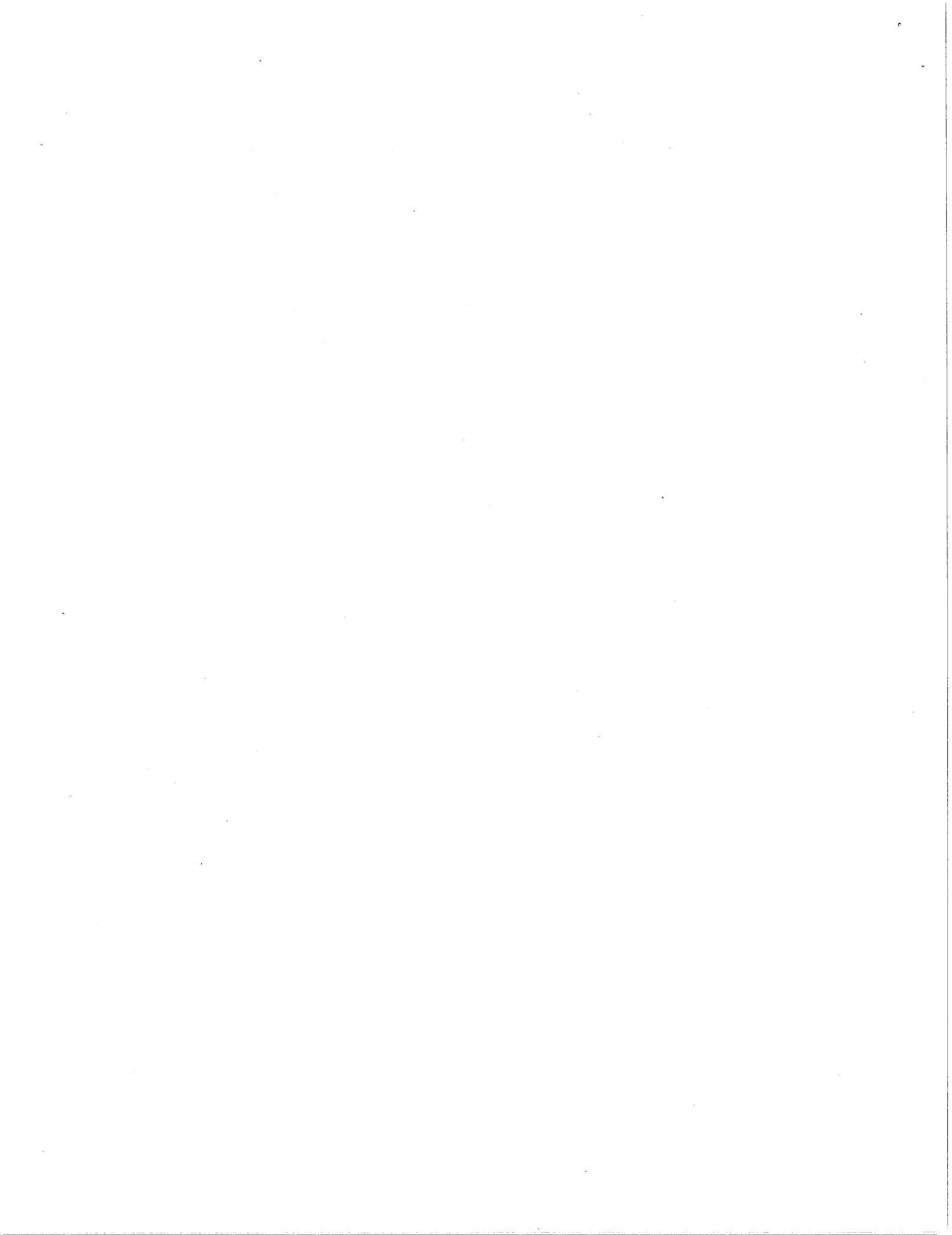
The certification shall be submitted to:

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

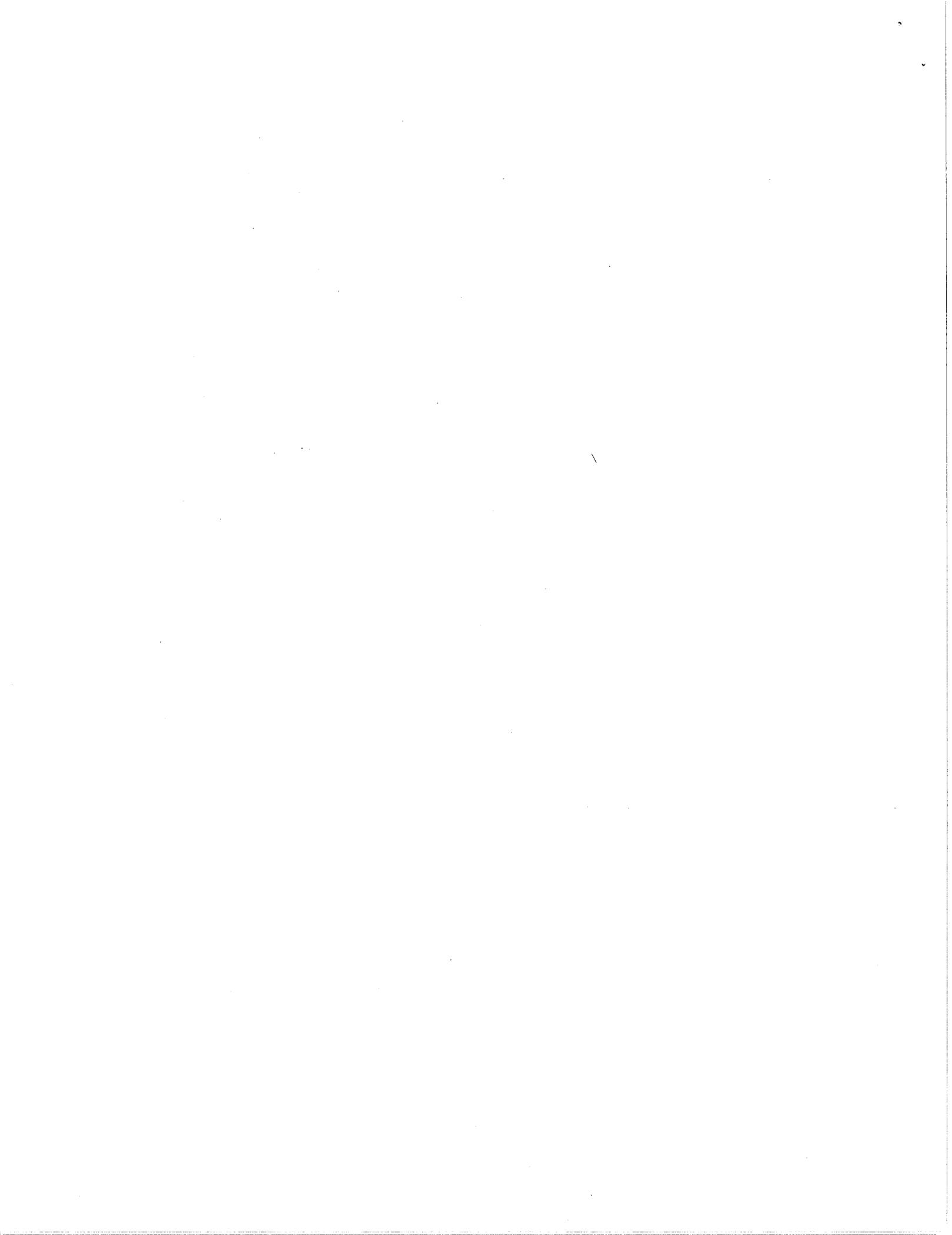
with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.



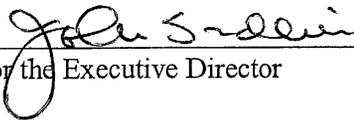
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

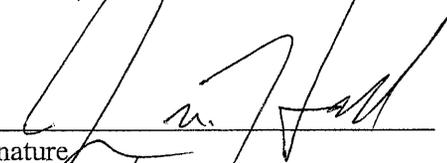
Date 9/17/2008

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

Date 7-8-08

Jon W. Hall

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

DIRECTOR OF PUBLIC WORKS

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.

