

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1373-PWS-E **TCEQ ID:** RN101385771 **CASE NO.:** 34475

**RESPONDENT NAME:** City of Itasca

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Itasca, 126 N. Hill Street, Itasca, Hill County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> One complaint was received on June 13, 2007, alleging that the Respondent has a leak at the water supply water meter. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received but the complainants have not expressed the desire to protest this action or speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> The Honorable Brian Kelly, Mayor, City of Itasca, 126 N. Hill Street, Itasca, Texas 76055                      Mr. Mark Gropp, City Administrator, City of Itasca, 126 N. Hill Street, Itasca, Texas 76055  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> June 13, 2007</p> <p><b>Date of Investigation Relating to this Case:</b> July 13, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 25, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to maintain distribution system lines, water storage and pressure maintenance facilities, and related appurtenances in a watertight condition and free of excessive solids. Specifically, there was a leak in the public water supply distribution system at the corner of North Wesley Street and East North Street [30 TEX. ADMIN. CODE § 290.46(m)(4)].</p>	<p><b>Total Assessed:</b> \$218</p> <p><b>Total Deferred:</b> \$43  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$175</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on June 18, 2007, the Respondent submitted photos showing repairs to the service line.</p>

Additional ID No(s): PWS 1090003



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

<b>DATES</b>	<b>Assigned</b>	30-Jul-2007	<b>Screening</b>	18-Aug-2007	<b>EPA Due</b>	
	<b>PCW</b>	29-Aug-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Itasca		
<b>Reg. Ent. Ref. No.</b>	RN101385771		
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34475	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1373-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Cheryl Thompson
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 3
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50.	<b>Maximum</b>
			\$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** **Subtotals 2, 3, & 7**

**Notes**

**Culpability** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply** **Subtotal 5**

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

**Notes**

**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** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

**Screening Date** 18-Aug-2007

**Docket No.** 2007-1373-PWS-E

**PCW**

**Respondent** City of Itasca

Policy Revision 2 (September 2002)

**Case ID No.** 34475

PCW Revision May 25, 2007

**Reg. Ent. Reference No.** RN101385771

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Cheryl Thompson

**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)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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)** 12%

>> **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 Respondent received two previous NOVs for the same or similar violations and one NOV for non-similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 12%

<b>Screening Date</b> 18-Aug-2007	<b>Docket No.</b> 2007-1373-PWS-E	<b>PCW</b>
<b>Respondent</b> City of Itasca		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 34475		<small>PCW Revision May 25, 2007</small>
<b>Reg. Ent. Reference No.</b> RN101385771		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Cheryl Thompson		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.46(m)(4)	
<b>Violation Description</b>	Failed to maintain distribution system lines, water storage and pressure maintenance facilities, and related appurtenances in a watertight condition and free of excessive solids. Specifically, there was a leak in the public water supply distribution system at the corner of N. Wesley Street and E. North Street.	
	<b>Base Penalty</b>	\$1,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width:50px;" type="text" value="25%"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width:50px;" type="text" value="0%"/>

**Matrix Notes** Failure to maintain water storage facilities in a watertight condition could impair the system's ability to provide an adequate and safe supply of water to the public.

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

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

**Violation Base Penalty**

One monthly event is recommended from the period of July 13, 2007 (date of inspection) to July 18, 2007 (date of compliance).

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
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Estimated EB Amount       Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Itasca  
**Case ID No.** 34475  
**Reg. Ent. Reference No.** RN101385771  
**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)	\$1,000	13-Jul-2007	18-Jul-2007	0.0	\$1	n/a	\$1

**Notes for DELAYED costs** Estimated cost to repair the leak in the distribution system lines. Date required is date of inspection. Final date is date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$1,000

**TOTAL** \$1

# Compliance History

Customer/Respondent/Owner-Operator:	CN600633648	City of Itasca	Classification: AVERAGE	Rating: 3.11
Regulated Entity:	RN101385771	CITY OF ITASCA	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		1090003
	WATER LICENSING	LICENSE		1090003
Location:	126 North Hill Street, Itasca, Hill County, Texas			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	August 09, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 09, 2002 to August 09, 2007			

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

Name: Cheryl Thompson Phone: (817)588-5886

## 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 | 01/21/2003 | (21031)  |  |
|   | N/A        |          |  |
| 2 | 01/21/2003 | (20487)  |  |
| 3 | 08/28/2003 | (31253)  |  |
| 4 | 12/27/2006 | (534853) |  |
| 5 | 04/26/2007 | (556229) |  |
| 6 | 06/27/2007 | (561857) |  |
| 7 | 07/23/2007 | (567833) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |                 |       |
|--------------|---|-----------------|-------|
| Date:        | 01/22/2003  | (21031)         |       |
| Self Report? | NO  | Classification: | Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)[G]   |                 |       |
| Description: | Failure to maintain the records of tests conducted on backflow prevention assemblies and maintenance reports. |                 |       |
| Self Report? | NO  | Classification: | Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)  |                 |       |
| Description: | Failure to provide copies of the last twelve months bacteriological analysis records.                         |                 |       |
| Self Report? | NO  | Classification: | Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(f)(2)   |                 |       |
| Description: | Failure to make accessible water system records that needed to be reviewed at the time of this investigation. |                 |       |
| Self Report? | NO  | Classification: | Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)  |                 |       |
| Description: | Failure to provide scales.  |                 |       |
| Date:        | 01/28/2003  | (20487)         |       |

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		
Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to provide a sanitary easement at the time of this investigation.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.39(j)[G]		
Description:	Failure to notify the Commission prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description:	Failure to provide an operational flow meter on well #3 (G1090003C) pump discharge line to provide water usage records and to assist in more efficient system operation.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)		
Description:	Failure to provide a properly installed well blow-off line.		
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 290.42(e)(4)(A)		
Description:	Failure to provide a full-face self-contained breathing apparatus or supplied air respirator that meets OSHA standards.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)		
Description:	Failure to repair the concrete sealing block surrounding well #3 (G1090003C) and well #4 (G1090003D) using a flexible, nontoxic, waterproof compound.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(2)		
Description:	Failure to provide the roof hatch on the below ground storage tank with a proper gasket to form a positive seal.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to maintain all service pumps in a watertight condition. In this connection, the leaking service pump located at City Hall PS must be repaired as necessary.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)		
Description:	Failure to provide well #1 (G1090003A), well #3 (G1090003C), and well #4 (G1090003D) with a screened casing vent, which must face downward and be elevated so as to minimize the drawing of contaminants into the well.		
Date	01/08/2007 (534853)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		
Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to provide a sanitary easement at the time of this investigation.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.39(j)[G]		
Description:	Failure to notify the Commission prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description:	Failure to provide an operational flow meter on well #3 (G1090003C) pump discharge line to provide water usage records and to assist in more efficient system operation.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)[G]		
Description:	Failure to maintain the records of tests conducted on backflow prevention assemblies and maintenance reports.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		

Description:	Failure to make accessible water system records that needed to be reviewed at the time of this investigation.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)		
Description:	Failure to provide a properly installed well blow-off line.		
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 290.42(e)(4)(A)		
Description:	Failure to provide a full-face self-contained breathing apparatus or supplied air respirator that meets OSHA standards.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)		
Description:	Failure to repair the concrete sealing block surrounding well #3 (G1090003C) and well #4 (G1090003D) using a flexible, nontoxic, waterproof compound.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(2)		
Description:	Failure to provide the roof hatch on the below ground storage tank with a proper gasket to form a positive seal.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to maintain all service pumps in a watertight condition. In this connection, the leaking service pump located at City Hall PS must be repaired as necessary.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)		
Description:	Failure to provide well #1 (G1090003A), well #3 (G1090003C), and well #4 (G1090003D) with a screened casing vent, which must face downward and be elevated so as to minimize the drawing of contaminants into the well.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to provide a plant operations manual.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(e)		
Description:	Failure to maintain the gate on the fence surrounding the City Hall Pump Station and the Golf Ball Pump Station to exclude possible contamination or damage to the facilities by trespassers.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(4)		
Description:	Failure to equip the ground storage tank with a water level indicator located at the tank site.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(3)		
Description:	Failure to maintain copies of well completion data for well #3 (G1090003C) and well #4 (G1090003D), located at the Golf Ball PS.		

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 ITASCA  
RN101385771**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1373-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 Itasca ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply headquartered at 126 North Hill Street in Itasca, Hill County, Texas (the "Facility") that has approximately 645 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 30, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Hundred Eighteen Dollars (\$218) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Seventy-Five Dollars (\$175) of the administrative penalty and Forty-Three Dollars (\$43) is deferred contingent upon the Respondent'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 Respondent fails to timely and



satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. The Executive Director recognizes that on June 18, 2007, the Respondent submitted photos showing repairs to the service line.
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 Respondent is alleged to have failed to maintain distribution system lines, water storage and pressure maintenance facilities, and related appurtenances in a watertight condition and free of excessive solids, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4), as documented during an investigation conducted on July 13, 2007. Specifically, there was a leak in the public water supply distribution system at the corner of North Wesley Street and East North Street.

## **III. DENIALS**

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

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent'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 Itasca, Docket No. 2007-1373-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 provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



City of Itasca  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John S. Miller  
For the Executive Director

12/28/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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.

Mark Grupp  
Signature

10-12-2007  
Date

Mark Grupp  
Name (Printed or typed)  
Authorized Representative of  
City of Itasca

City Administrator  
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.

