EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-1897-PWS-E **TCEQ ID:** RN101234847 **CASE NO.:** 27296

RESPONDENT NAME: City of Tahoka

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Tahoka Public Water System, 1612 Lockwood, Tahoka, Lynn County

TYPE OF OPERATION: Public water system

SMALL BUSINESS: ____ Yes ___ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 14, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Audra Ruble, Enforcement Division, Enforcement Team 4, (361) 825-3126, MC R-14; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: The Honorable Mike Mensch, Mayor, City of Tahoka, P.O. Box 300, Tahoka, Texas 79373

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** September 16, 2005 **Date of NOV/NOE Relating to this Case:** October 27, 2005 (NOE) **Background Facts:** This was a routine investigation. Five violations were documented. **WATER** 1) Failed to provide backflow prevention records for all high hazard facilities [30 TEX. ADMIN. CODE § 290.44(h)(4)(C)]. 2) Failed to properly screen the casing vents on Wells 1 and 6 [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)]. 3) Failed to provide a proper seal or gasket on the inside of the ground storage hatches on the tanks located at 6th and 8th Streets [30 TEX. ADMIN. CODE § 290.43(c)(2)]. 4) Failed to plug all abandoned wells owned by the system [30 TEX. ADMIN. CODE § 290.46(u)]. 5) Failed to provide an intruder-resistant fence for the elevated storage tank [30 TEX. ADMIN. CODE § 290.43(e)].	**Total Assessed:** $7,150 **Total Deferred:** $1,430 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $5,720 **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** __ **Average** __ **Poor** **Major Source:** X Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. Backflow prevention records were provided to the TCEQ on September 26, 2005; b. Documentation was submitted on September 26, 2005, demonstrating that the screens had been replaced on Wells 1 and 6; and c. Documentation was submitted on October 3, 2005, demonstrating that new hatch seals had been installed on the ground storage tanks and that the fence had been repaired. **Ordering Provisions:** The Order will require the Respondent to: a. Within 180 days after the effective date of this Agreed Order, the City shall have identified the most severely deteriorated abandoned wells and ensure that these wells are plugged and sealed according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers); b. Within 365 days after the effective date of this Agreed Order, the City shall ensure that all abandoned wells owned by the City have been plugged and sealed according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers); and c. Within 375 after the effective date of this Agreed Order, submit a copy of the required well plugging reports.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	31-Oct-2005				
PCW	01-Dec-2005	Screening	04-Nov-2005	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Tahoka		
Reg. Ent. Ref. No.	RN101234847		
Facility/Site Region	2-Lubbock	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	27296	No. of Violations	4
Docket No.	2005-1897-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Audra L. Ruble
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $6,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 10% Enhancement *Subtotals 2, 3, & 7* $650

Notes: The Respondent has received two NOVs for the same or similar violations in the past five years.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

Notes: The Respondent is not yet in compliance.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$240
Approx. Cost of Compliance	$3,100

SUM OF SUBTOTALS 1-7 Final Subtotal $7,150

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $7,150

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $7,150

DEFERRAL 20% Reduction Adjustment -$1,430

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $5,720

Screening Date	04-Nov-2005	**Docket No.** 2005-1897-PWS-E	**PCW**
Respondent	City of Tahoka		*Policy Revision 2 (September 2002)*
Case ID No.	27296		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN101234847		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Audra L. Ruble		

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

>> 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 has received two NOVs for the same or similar violations in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **10%**

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	04-Nov-2005
Docket No.	2005-1897-PWS-E
Respondent	City of Tahoka
Case ID No.	27296
Reg. Ent. Reference No.	RN101234847
Media [Statute]	Public Water Supply
Enf. Coordinator	Audra L. Ruble
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 290.44(h)(4)(C)
Secondary Rule Cite(s)	
Violation Description	Failure to provide backflow prevention records for all high hazard facilities. At the time of the investigation, records were not available for review.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

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

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $250

One single event is recommended based on the date of investigation (September 16, 2005).

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $275

This violation Final Assessed Penalty (adjusted for limits) $275

Economic Benefit Worksheet

Respondent City of Tahoka
Case ID No. 27296
Reg. Ent. Reference No. RN101234847
Media [Statute] Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$100	16-Sep-2005	26-Sep-2005	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 maintain records. Date required is the date of investigation and final date is when compliance was achieved.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $100

TOTAL $0

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	04-Nov-2005
Docket No.	2005-1897-PWS-E
Respondent	City of Tahoka
Case ID No.	27296
Reg. Ent. Reference No.	RN101234847
Media [Statute]	Public Water Supply
Enf. Coordinator	Audra L. Ruble

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.41(c)(3)(K) and 290.43(c)(2)

Secondary Rule Cite(s)

Violation Description Failure to properly screen the casing vents on Wells 1 and 6. Failure to provide a proper seal or gasket on the inside of the ground storage hatches on the tanks located at 6th and 8th Streets.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failure to provide a proper casing vent and seals allows a condition which could expose human health to a significant amount of pollutants which would exceed protective levels.

Adjustment -$500

Base Penalty Subtotal $500

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $500

One monthly event is recommended from investigation (September 16, 2005) to the date of compliance (October 3, 2005).

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $550

This violation Final Assessed Penalty (adjusted for limits) $550

Economic Benefit Worksheet

Respondent City of Tahoka
Case ID No. 27296
Reg. Ent. Reference No. RN101234847
Media [Statute] Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$1,000	16-Sep-2005	03-Oct-2005	0.0	$0	$3	$3
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 repair the casing vents and provide seals for the ground storage tanks. Date required is the date of investigation and final date is when compliance was achieved.

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 $3

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	04-Nov-2005
Docket No.	2005-1897-PWS-E
Respondent	City of Tahoka
Case ID No.	27296
Reg. Ent. Reference No.	RN101234847
Media [Statute]	Public Water Supply
Enf. Coordinator	Audra L. Ruble

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(u)

Secondary Rule Cite(s)

Violation Description Failure to plug all abandoned wells owned by the system. During the investigation, it was documented that there are 11 abandoned wells which have not been plugged.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failure to plug the abandoned well could expose human health or the environment to significant amounts of pollutants which would exceed levels that are protective of human health or the environment.

Adjustment -$500

Base Penalty Subtotal $500

Violation Events

Number of Violation Events: 11

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,500

Eleven quarterly events (one event per well) are recommended from investigation (September 16, 2005) to screening (November 4, 2005).

Economic Benefit (EB) for this violation

Estimated EB Amount $236

Statutory Limit Test

Violation Final Penalty Total $6,050

This violation Final Assessed Penalty (adjusted for limits) $6,050

Economic Benefit Worksheet

Respondent City of Tahoka
Case ID No. 27296
Reg. Ent. Reference No. RN101234847
Media [Statute] Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$1,500	11-Jun-2003	01-Aug-2006	3.1	$236	n/a	$236

Notes for DELAYED costs Estimated cost to plug the abandoned wells. Date required is the first documentation of the violation and final date is when compliance is expected to be achieved.

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 $1,500

TOTAL $236

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	04-Nov-2005
Docket No.	2005-1897-PWS-E
Respondent	City of Tahoka
Case ID No.	27296
Reg. Ent. Reference No.	RN101234847
Media [Statute]	Public Water Supply
Enf. Coordinator	Audra L. Ruble
Violation Number	4
Primary Rule Cite(s)	30 Tex. Admin. Code § 290.43(e)
Secondary Rule Cite(s)	
Violation Description	Failure to properly maintain an intruder-resistant fence for the elevated storage tank. At the time of the investigation, the barbed wire was missing from a section along the top of the fence.

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

Matrix Notes: Failure to maintain the fence in good repair could expose the system to a significant amount of pollutants which would not exceed protective levels.

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events: 1

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $250

One quarterly event is recommended from investigation (September 16, 2005) to the date of compliance (October 3, 2005).

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $275

This violation Final Assessed Penalty (adjusted for limits) $275

Economic Benefit Worksheet

Respondent City of Tahoka
Case ID No. 27296
Reg. Ent. Reference No. RN101234847
Media [Statute] Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$500	16-Sep-2005	03-Oct-2005	0.0	$1	n/a	$1
Notes for DELAYED costs	Estimated cost to repair the fencing. Date required is the date of investigation and final date is when compliance was achieved.						
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 $500

TOTAL $1

Compliance History

Customer/Respondent/Owner-Operator:	CN601097934	City of Tahoka	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN101234847	TAHOKA PUBLIC WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING		REGISTRATION LICENSE	1530002 1530002
Location:	1612 LOCKWOOD, TAHOKA, TX, 79373			
TCEQ Region:	REGION 02 - LUBBOCK			
Date Compliance History Prepared:	November 08, 2005			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 08, 2000 to November 08, 2005			

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

Name: Audra Ruble Phone: 361-825-3126

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 12/04/2002 (18295)
2 09/06/2002 (10729)
3 04/04/2005 (376443)
4 10/24/2003 (253062)
5 02/08/2005 (349431)
6 09/15/2003 (248857)
7 08/06/2003 (148782)
8 12/14/2004 (342154)
9 06/20/2005 (396521)
10 10/27/2005 (432034)
11 04/22/2004 (270132)
12 02/08/2005 (349428)
13 07/10/2003 (112502)

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

Date: 07/10/2003 (112502)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C)
Description: Failure to properly inspect all backflow prevention devices.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]
Description: Failure to maintain the roof hatch and roof on the Ave. P ground storage tank.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]
Description: Failure to maintain the distribution line at well #15 in a leak proof condition.

Date: 12/14/2004 (342154)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
Description: Failure to screen the air relief valve on well #15.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C)
Description: Failure to provide backflow prevention inspection records for all high hazard facilities.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
Description: Failure to prevent ponding on both ground storage tanks and failure to seal cracks on the 6th Street ground storage tank.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]
Description: Failure to properly maintain the hatch on the 6th Street ground storage tank.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]
Description: Failure to properly maintain the booster pumps at the 7th Street pump station.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(F)
Description: Failure to provide a maintenance plan for updating the water utility infra-structure.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF TAHOKA	§	
RN101234847	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2005-1897-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 the City of Tahoka ("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 public water system located at 1612 Lockwood in Tahoka, Lynn County, Texas (the "Facility") that has approximately 1147 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 November 2, 2005.

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 Seven Thousand One Hundred Fifty Dollars ($7,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Five Thousand Seven Hundred Twenty Dollars ($5,720) of the administrative penalty and One Thousand Four Hundred Thirty Dollars ($1,430) 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. Backflow prevention records were provided to the TCEQ on September 26, 2005;

   b. Documentation was submitted on September 26, 2005, demonstrating that the screens had been replaced on Wells 1 and 6; and

   c. Documentation was submitted on October 3, 2005, demonstrating that new hatch seals had been installed on the ground storage tanks and that the fence had been repaired.

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 provide backflow prevention records for all high hazard facilities, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4)(C), as documented during an investigation conducted on September 16, 2005.

2. Failed to properly screen the casing vents on Wells 1 and 6, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on September 16, 2005.

3. Failed to provide a proper seal or gasket on the inside of the ground storage hatches on the tanks located at 6th and 8th Streets, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2), as documented during an investigation conducted on September 16, 2005.

4. Failed to plug all abandoned wells owned by the system, in violation of 30 TEX. ADMIN. CODE § 290.46(u), as documented during an investigation conducted on September 16, 2005.

5. Failed to provide an intruder-resistant fence for the elevated storage tank, in violation of 30 TEX. ADMIN. CODE § 290.43(e), as documented during an investigation conducted on September 16, 2005.

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 imposition 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 Tahoka, Docket No. 2005-1897-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 180 days after the effective date of this Agreed Order, the City shall have identified the most severely deteriorated abandoned wells and ensure that these wells are plugged and sealed according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers);

   b. Within 365 days after the effective date of this Agreed Order, the City shall ensure that all abandoned wells owned by the City have been plugged and sealed according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers); and

   c. Within 375 after the effective date of this Agreed Order, submit a copy of the required well plugging reports to:

      Water Section Manager
      Lubbock Regional Office
      Texas Commission on Environmental Quality
      3113 34th Street
      Lubbock, Texas 79410-3227

      with a copy to:

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

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

_____ 12/19/2007
For the Executive Director Date

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

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

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

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

_____ November 16, 2007
Signature Date

Mike Mensch _____ Mayor, City of Tahoka
Name (Printed or typed) Title
Authorized Representative of
City of Tahoka

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.