EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1540-PWS-E **TCEQ ID:** RN101383586 **CASE NO.:** 34661

RESPONDENT NAME: City of Hamilton

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: City of Hamilton, north of County Road 300 on State Highway 22, Hamilton County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ____ Yes __X__ 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 March 10, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
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 Roy Rumsey, Mayor, City of Hamilton, 200 East Main Street, Hamilton, Texas 76531
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:** June 27, 2007 **Date of NOV/NOE Relating to this Case:** September 6, 2007 (NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failed to test backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and certified to be operating within specifications [30 TEX. ADMIN. CODE § 290.44(h)(4)]. 2) Failed to maintain an up-to-date Facility operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)]. 3) Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)(4)]. 4) Failed to initiate maintenance housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, at the time of the investigation, it was observed that the fences at the main plant and the South College Street elevated tank were overgrown with vegetation [30 TEX. ADMIN. CODE § 290.46(m)]. 5) Failed to maintain the Facility's storage tanks in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was noted that	**Total Assessed:** $4,687 **Total Deferred:** $937 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $3,750 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** ___ **High** ___ **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. Provided documentation demonstrating compliance with the backflow prevention assemblies, as documented on November 16, 2007; b. Provided photos of the repaired leaks on pump 2 at the booster plant station, as documented on November 16, 2007; c. Began initiating a maintenance program to ensure the appearance of the Facility by clearing the overgrown vegetation from the fences for the main plant and the South College Street elevated tank site; and d. Provided photos demonstrating compliance with the hinged flap valve, as documented on November 16, 2007. **Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to: a. Within 60 days after the effective date of this Agreed Order: i. Begin maintaining an up-to-date and thorough plant operations manual for operator review and reference; and ii. Refurbish the standpipe so that the exterior meets AWWA standards. b. Within 75 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

the external coating on the standpipe is extremely deteriorated and has extensive rust spots. In addition, it was noted during the investigation that the hinged flap valve on the East Main Street elevated tank does not seal properly [30 TEX. ADMIN. CODE § 290.43(c)(8) and (c)(3)]. 6) Failed to provide a purchase water contract that authorizes a maximum daily purchase rate, or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(f)(4)].		c. Within 180 days after the effective date of this Agreed Order, provide a water purchase contract to meet the minimum capacity requirement of 0.6 gpm per connection. d. Within 195 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 No. 2.c.

Additional ID No(s).: PWS 0970001

Attachment A
Docket Number: 2007-1540-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Hamilton**
Payable Penalty Amount:	**Three Thousand Seven Hundred Fifty Dollars ($3,750)**
SEP Amount:	**Three Thousand Seven Hundred Fifty Dollars ($3,750)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up**
Location of SEP:	**Hamilton County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 26, 2007*

TCEQ

DATES					
Assigned	17-Sep-2007				
PCW	19-Sep-2007	Screening	19-Sep-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Hamilton		
Reg. Ent. Ref. No.	RN101383586		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34661	No. of Violations	6
Docket No.	2007-1540-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $3,300

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 39% Enhancement — *Subtotals 2, 3, & 7* $1,287

Notes: The penalty enhancement is due to three prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement action, two prior dissimilar NOVs, and one enforcement order containing denial of liability.

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 x)

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

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$786
Approx. Cost of Compliance	$8,300

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $4,587

OTHER FACTORS AS JUSTICE MAY REQUIRE — 2% — *Adjustment* $100

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

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount $4,687

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $4,687

DEFERRAL — 20% Reduction — *Adjustment* -$937

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 $3,750

Screening Date 19-Sep-2007 **Docket No.** 2007-1540-PWS-E **PCW**

Respondent City of Hamilton

Policy Revision 2 (September 2002)

Case ID No. 34661

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101383586

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*)	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of 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) 39%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to three prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement action, two prior dissimilar NOVs, and one enforcement order containing denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date 19-Sep-2007 **Docket No.** 2007-1540-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 34661 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code 290.44(h)(4)

Violation Description Failed to test backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and certified to be operating within specifications. Specifically, at the time of the investigation, it was noted that thirteen months (April 10, 2006 to May 21, 2007) had passed between inspections of the backflow prevention device at Hamilton Quality Meats.

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 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 $500

$500

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $500

One annual event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $146

Statutory Limit Test

Violation Final Penalty Total $710

This violation Final Assessed Penalty (adjusted for limits) $710

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 34661
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling	$100	27-Jun-2006	16-Nov-2007	1.4	$7	$139	$146
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	The avoided cost includes the amount to test the Hamilton Quality meats backflow prevention device, calculated for the 12 month period proceeding the date of the investigation to the date of compliance.						

Approx. Cost of Compliance	$100	TOTAL	$146

Screening Date 19-Sep-2007 **Docket No.** 2007-1540-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 34661 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

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

Violation Description Failed to maintain an up-to-date facility operations manual for operator review and reference. Specifically, it was noted during the investigation that the water system's plant operations manual is not up-to-date because it includes information in reference to the the surface water treatment plant which has been removed from service on March 19, 2007.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 10%

Matrix Notes: 50% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events 1 | 84 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $142

This violation Final Assessed Penalty (adjusted for limits) $142

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 34661
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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	27-Jun-2007	1-Jun-2008	0.9	$5	n/a	$5
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	The delayed cost includes the amount required to update the facility operations manual to represent its operational status, calculated from the date of the record review to the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	$100	TOTAL	$5

Screening Date 19-Sep-2007 **Docket No.** 2007-1540-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 34661 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(4)

Violation Description Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition. Specifically, at the time of the investigation, it was noted that leaks were observed on pump no. 2 at the booster pump station and a valve on the stand pipe.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain the water system in a watertight condition could allow a significant amount of contaminants to enter the water system which would not exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 2 | 84 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $500

Two quarterly events are recommended (one event per leak) from the date of the investigation, June 27, 2007, to the date of screening, September 19, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $710

This violation Final Assessed Penalty (adjusted for limits) $710

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 34661
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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)	$200	27-Jun-2007	16-Nov-2007	0.4	$0	$5	$5
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	The delayed cost includes the amount to repair the leaks at pump 2 and the valve on the standpipe, 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				0.0	$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: $200

TOTAL: $5

Screening Date 19-Sep-2007 **Docket No.** 2007-1540-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 34661 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

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

Violation Description Failed to initiate maintenance housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, at the time of the investigation, it was observed that the fences at the main plant and South College Street elevated tank were overgrown with vegetation.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain the grounds around the water supply could result in customers of the water supply being exposed to insignificant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment $900

$100

Violation Events

Number of Violation Events 2 | 84 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $200

Two single events are recommended (one event per location).

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $284

This violation Final Assessed Penalty (adjusted for limits) $284

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 34661
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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)	$200	27-Jun-2007	16-Nov-2007	0.4	$0	$5	$5
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: The delayed costs include the amount to initiate maintenance and good housekeeping practices at the main plant and South College Street, 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				0.0	$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: $200

TOTAL: $5

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Screening Date 19-Sep-2007 **Docket No.** 2007-1540-PWS-E

Respondent City of Hamilton

Case ID No. 34661

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8) and (c)(3)

Violation Description Failed to maintain the facility's storage tanks in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was noted that the external coating on the standpipe is extremely deteriorated and has extensive rust spots. In addition, it was noted during the investigation that the hinged flap valve on the East Main Street elevated tank does not seal properly.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain storage tanks in accordance with AWWA standards could allow significant amounts of contaminants to enter the water supply which would not exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 2

84 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $500

Two quarterly events (one event per tank) are recommended from the date of the investigation, June 27, 2007, to the date of screening, September 19, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $181

Statutory Limit Test

Violation Final Penalty Total $710

This violation Final Assessed Penalty (adjusted for limits) $710

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 34661
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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)	$2,500	27-Jun-2007	1-Jul-2008	1.0	$8	$169	$177
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)	$200	27-Jun-2007	16-Nov-2007	0.4	$4	n/a	$4

Notes for DELAYED costs: The delayed cost includes the amount to refurbish the coating of the standpipe calculated from the date of the investigation to the estimated date of compliance. The delayed costs includes the amount to provide a hinged flap that will seal properly on the East Main Street elevated tank, 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				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $2,700

TOTAL: $181

Screening Date 19-Sep-2007 **Docket No.** 2007-1540-PWS-E **PCW**

Respondent City of Hamilton *Policy Revision 2 (September 2002)*

Case ID No. 34661 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN101383586

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.45(f)(4)

Violation Description Failed to provide a purchase water contract that authorizes a maximum daily purchase rate, or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, at the time of the investigation, it was documented that the system currently provides a production capacity of 571 gpm. Based on the number of connections and water supplied to another public water supply through a wholesale water contract, the system is required to provide a production capacity of at least 1,546 gpm. Therefore, the system is 63 % deficient.

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 0%

Matrix Notes: Without sufficient well capacity, customers of the water supply could possibly experience water outages and the system's ability to provide a safe and adequate water supply could be impaired.

Adjustment $500

$500

Violation Events

Number of Violation Events 3 84 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,500

Three monthly events are recommended from the date of the investigation, June 27, 2007, to the date of screening, September 19, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $443

Statutory Limit Test

Violation Final Penalty Total $2,130

This violation Final Assessed Penalty (adjusted for limits) $2,130

Economic Benefit Worksheet

Respondent City of Hamilton
Case ID No. 34661
Reg. Ent. Reference No. RN101383586
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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	$5,000	27-Jun-2007	1-Oct-2008	1.3	$21	$422	$443
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: The delayed cost includes the amount to meet the authorized daily purchase rate of 0.6 gpm per connection, 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))							
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: $5,000

TOTAL: $443

Compliance History

Customer/Respondent/Owner-Operator:	CN600626279	City of Hamilton	Classification:	Rating:
Regulated Entity:	RN101383586	CITY OF HAMILTON	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING		REGISTRATION LICENSE	0970001 0970001
Location:	NORTH OF CR 300, ON SH 22			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	September 18, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 18, 2002 to September 18, 2007			

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

Name: Epi Villarreal Phone: (210) 403-4033

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 12/12/2002 ADMINORDER 2002-0080-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain a residual disinfectant concentration of at least 0.5 mg/L free chloramine in the far reaches of the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
4G THC Chapter 321, SubChapter D 341.0315(c)

Description: Failure to provide a minimum treatment plant capacity of 0.6 gpm per connection

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to install backflow prevention devices where an actual or potential contamination hazard exists.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failure to provide a flow measuring device to measure the treated water used to backwash the filters.

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 02/06/2003 (23172)
2 03/03/2003 (280884)
3 04/03/2003 (27028)
4 04/23/2004 (268889)
5 05/18/2005 (379498)
6 07/26/2005 (396807)
7 07/24/2006 (460835)
8 09/26/2006 (511251)
9 11/21/2006 (531349)
10 02/15/2007 (537465)
11 09/11/2007 (565729)

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

Date: 02/10/2003 (23172)

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 291, SubChapter F 291.93[G]
Description: The results of this investigation indicate that this water system's minimum required treatment capacity has exceeded 85% of its existing capacity.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide a proper overflow flap valve on the East Street elevated storage tank.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)
Description: Failure to properly label chemical tanks and feed lines.

Date: 04/04/2003 (27028)

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 291, SubChapter F 291.93[G]
Description: The results of this investigation indicate that this water system's minimum required treatment capacity has exceeded 85% of its existing capacity.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide a proper overflow flap valve on the East Street elevated storage tank.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)
Description: Failure to properly label chemical tanks and feed lines.

Date: 04/21/2004 (268889)

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to calibrate flow measuring devices every 12 months. During this investigation it was noted that the lake raw water meter, plant raw water meter, backwash meter, and recycle meter have not been calibrated in the last 12 months. These meters must be calibrated as required.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
Description: Failure to properly install service pump vents located on the clearwell.

Date: 05/23/2005 (379498)

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)
Description: Failure to provide a proper air gap connection on the filter-to-waste connection.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(i)
Description: Failure to properly calibrate the pH meter.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence in order to protect the elevated storage tank.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)(F)

Description: Failure to locate dry chemical feeders in a separate room that is provided with facilities for dust control.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(I)

Description: Failure to provide containment facilities for all liquid chemical storage tanks.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)[G]

Description: Failure to identify all chemical feed lines by the use of labels or various colors of paint.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]

Description: Failure to inspect the elevated tanks, clearwell, and standpipe at least annually.

Date: 07/17/2006 (460835)

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)

Description: Failure to provide a proper air gap connection on the filter-to-waste connection.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)(F)

Description: Failure to locate dry chemical feeders in a separate room that is provided with facilities for dust control.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide adequate treatment plant capacity.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)

Description: Failure to provide proper housing for gas chlorine cylinders.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20(c)

Description: Failure to provide an up-to-date drought contingency plan.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists.

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

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF HAMILTON	§	
RN101383586	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1540-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 Hamilton ("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 supply north of County Road 300 on State Highway 22, Hamilton County, Texas (the "Facility") that has approximately 1,577 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 September 11, 2007.

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 Four Thousand Six Hundred Eighty-Seven Dollars ($4,687) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Thousand Seven Hundred Fifty Dollars ($3,750) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") and Nine Hundred Thirty-Seven Dollars ($937) 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. Provided documentation demonstrating compliance with the backflow prevention assemblies, as documented on November 16, 2007;

   b. Provided photos of the repaired leaks on pump 2 at the booster plant station, as documented on November 16, 2007;

   c. Began initiating a maintenance program to ensure the appearance of the Facility by clearing the overgrown vegetation from the fences for the main plant and the South College Street elevated tank site; and

   d. Provided photos demonstrating compliance with the hinged flap valve, as documented on November 16, 2007.

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 test backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and certified to be operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4), as documented during an investigation conducted on June 27, 2007.

2. Failed to maintain an up-to-date Facility operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l), as documented during an investigation conducted on June 27, 2007.

3. Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4), as documented during an investigation conducted on June 27, 2007.

4. Failed to initiate maintenance housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m), as documented during an investigation conducted on June 27, 2007. Specifically, at the time of the investigation, it was observed that the fences at the main plant and the South College Street elevated tank were overgrown with vegetation.

5. 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) and (c)(3), as documented during an investigation conducted on June 27, 2007. Specifically, at the time of the investigation, it was noted that the external coating on the standpipe is extremely deteriorated and has extensive rust spots. In addition, it was noted during the investigation that the hinged flap valve on the East Main Street elevated tank does not seal properly.

6. Failed to provide a purchase water contract that authorizes a maximum daily purchase rate, or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(4), as documented during an investigation conducted on June 27, 2007.

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 Hamilton, Docket No. 2007-1540-PWS-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 5 above, Three Thousand Seven Hundred Fifty Dollars ($3,750) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall undertake the following technical requirements:

   a. Within 60 days after the effective date of this Agreed Order:

      i. Begin maintaining an up-to-date and thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42; and

      ii. Refurbish the standpipe so that the exterior meets AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43.

   b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 3.d., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 3.a.

   c. Within 180 days after the effective date of this Agreed Order, provide a water purchase contract to meet the minimum capacity requirement of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.

   d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No 3.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

      The certification shall be submitted to:

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

      with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. 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.

5. 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.

6. 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.

7. 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.

8. 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

_____ 3/4/2008
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 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.

Roy Rumsey 12-18-07
Signature Date

ROY RUMSEY Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Hamilton

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.

Attachment A
Docket Number: 2007-1540-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Hamilton**
Payable Penalty Amount:	**Three Thousand Seven Hundred Fifty Dollars ($3,750)**
SEP Amount:	**Three Thousand Seven Hundred Fifty Dollars ($3,750)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up**
Location of SEP:	**Hamilton County**

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.