

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2007-1263-PWS-E **TCEQ ID:** RN101389146 **CASE NO.:** 34375
RESPONDENT NAME: City of New Home

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of New Home, 106 East Broadway, New Home, Lynn County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 19, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Tel Croston, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5717; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Steve Lisemby, Mayor, City of New Home, P.O. Box 278, New Home, Texas 79383 The Honorable David Gandy, Mayor Protem, City of New Home, P.O. Box 278, New Home, Texas 79383 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 18, 2007</p> <p>Date of NOE Relating to this Case: July 20, 2007 (NOE)</p> <p>Background Facts: This was a records review investigation.</p> <p>WATER</p> <p>1) Failure to seal the wellhead with a gasket or sealing compound and failure to provide a well casing vent. Specifically, Well No. 3 did not have a well casing vent and there was a large open seam on top of the wellhead [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].</p> <p>2) Failure to provide the point of application for disinfection ahead of the ground storage tank. Specifically, the disinfection point of injection was on the side of the ground storage tank [30 TEX. ADMIN. CODE § 290.42(e)(2)].</p> <p>3) Failure to provide a roof vent on the ground storage tank in accordance with American Water Works Association ("AWWA") standards. Specifically, the ground storage tank roof vent did not appear capable of withstanding high winds and the screen was held in place with wire [30 TEX. ADMIN. CODE § 290.43(c)(1)].</p> <p>4) Failure to secure the roof hatch of the ground storage tank. Specifically, no lock on the roof hatch of the ground storage tank [30 TEX. ADMIN. CODE § 290.43(c)(2)].</p> <p>5) Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment.</p>	<p>Total Assessed: \$531</p> <p>Total Deferred: \$106 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$425</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install a well casing vent for Well No. 3 and seal the open seam on the wellhead at Well No. 3;</p> <p>ii. Provide the ground storage tank with a vent and screen that meet AWWA standards; and</p> <p>iii. Install a lock on the roof hatch of the ground storage tank.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.;</p> <p>c) Within 60 days after the effective date of this Agreed Order:</p> <p>i. Install the point of application for disinfection on the well discharge line ahead of the ground storage tank; and</p> <p>ii. Refurbish the elevated and ground storage tanks so that there is no sign of rust and replace the rusted pipes in the pump house.</p> <p>d) Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or records to demonstrate compliance with Ordering Provision c.</p>

<p>Specifically, there was a large area of rust on the bottom of the elevated storage tank, the support beams of the ground storage tank were rusting apart, there were holes in the top of the ground storage tank and the piping in the pump house was rusted beyond repair [30 TEX. ADMIN. CODE § 290.46(m)].</p>		
--	--	--

Additional ID No(s): PWS No. 1530004



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	23-Jul-2007	Screening	6-Aug-2007	EPA Due	
	PCW	9-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of New Home		
Reg. Ent. Ref. No.	RN101389146		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34375	No. of Violations	5
Docket No.	2007-1263-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Tel Croston
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$450
---	-------------------	--------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	18% Enhancement	Subtotals 2, 3, & 7	\$81
---------------------------	-----------------	--------------------------------	-------------

Notes The Respondent had two Notices of Violation (NOVs) with the same or similar violations and four NOVs with dissimilar 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$555	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$5,795	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$531
-----------------------------	-----------------------	--------------

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	\$531
-----------------------------	--------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$531
-----------------------------------	-------------------------------	--------------

DEFERRAL	20% Reduction	Adjustment	-\$106
-----------------	---------------	-------------------	---------------

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$425
------------------------	--------------

Screening Date 6-Aug-2007

Docket No. 2007-1263-PWS-E

PCW

Respondent City of New Home

Policy Revision 2 (September 2002)

Case ID No. 34375

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101389146

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

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	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 18%

>> 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 had two Notices of Violation (NOVs) with the same or similar violations and four NOVs with dissimilar violations in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 18%

Screening Date	6-Aug-2007	Docket No.	2007-1263-PWS-E	PCW
Respondent	City of New Home			<small>Policy Revision 2 (September 2002)</small>
Case ID No.	34375			<small>PCW Revision June 26, 2007</small>
Reg. Ent. Reference No.	RN101389146			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Tel Croston			
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 290.41(c)(3)(K)			
Violation Description	Failed to seal the wellhead with a gasket or sealing compound and failed to provide a well casing vent for Well No. 3. Specifically, at the time of the investigation, Well No. 3 did not have a well casing vent and there was a large open seam on top of the wellhead.			
		Base Penalty	<input type="text" value="\$1,000"/>	

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent
					<input type="text" value="0%"/>
Matrix Notes	Failure to provide a well casing and properly seal the wellhead could result in customers of the water supply being exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the date of the investigation, June 18, 2007, to the date of screening, August 6, 2007.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$14"/>	Violation Final Penalty Total <input type="text" value="\$118"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$118"/>	

Economic Benefit Worksheet

Respondent: City of New Home
Case ID No.: 34375
Reg. Ent. Reference No.: RN101389146
Media: Public Water Supply
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment	\$150	18-Jun-2007	30-Sep-2008	1.3	\$1	\$13	\$14
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

The delayed costs include the amount to provide a well casing vent for the well and seal the wellhead, 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

\$150

TOTAL

\$14

Screening Date 6-Aug-2007	Docket No. 2007-1263-PWS-E	PCW
Respondent City of New Home	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34375	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101389146		
Media [Statute] Public Water Supply		
Enf. Coordinator Tel Croston		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	30 Tex. Admin. Code § 290.42(e)(2)	
Violation Description	Failed to provide the point of application for disinfection ahead of the ground storage tank. Specifically, at the time of the investigation, it was documented that the disinfection point of application was on the side of the ground storage tank.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes Failure to provide a disinfection point of application before storage could impair the system's ability to provide adequate disinfection of the water resulting in the public being exposed to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty

One quarterly event is recommended from the date of the investigation, June 18, 2007, to the date of screening, August 6, 2007.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$192"/>	Violation Final Penalty Total <input type="text" value="\$118"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$118"/>	

Economic Benefit Worksheet

Respondent City of New Home
 Case ID No. 34375
 Reg. Ent. Reference No. RN101389146
 Media Public Water Supply
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$2,000	18-Jun-2007	31-Oct-2008	1.4	\$9	\$183	\$192
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

The delayed costs include the amount to install disinfection equipment ahead of the ground storage tank, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$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

\$2,000

TOTAL

\$192

Screening Date 6-Aug-2007	Docket No. 2007-1263-PWS-E	PCW
Respondent City of New Home	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34375	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101389146		
Media [Statute] Public Water Supply		
Enf. Coordinator Tel Croston		
Violation Number	3	
Rule Cite(s)	30 Tex. Admin. Code § 290.43(c)(1)	
Violation Description	Failed to provide a roof vent on the ground storage tank in accordance with American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the ground storage tank roof vent did not appear capable of withstanding high winds and the screen was held in place with wire.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 Failure to provide a roof vent for the ground storage tank in accordance with AWWA standards could expose customers of the water supply to significant amounts of pollutants which would not exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty

One quarterly event is recommended from the date of the investigation, June 18, 2007, to the date of screening, August 6, 2007.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$11"/>	Violation Final Penalty Total <input type="text" value="\$118"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$118"/>	

Economic Benefit Worksheet

Respondent City of New Home
Case ID No. 34375
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$120	18-Jun-2007	30-Sep-2008	1.3	\$1	\$10	\$11
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

The delayed costs include the amount to provide a roof vent that meets AWWA standards for the ground storage tank, 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

\$120

TOTAL

\$11

Screening Date 6-Aug-2007	Docket No. 2007-1263-PWS-E	PCW
Respondent City of New Home	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34375	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101389146		
Media [Statute] Public Water Supply		
Enf. Coordinator Tel Croston		
Violation Number	4	
Rule Cite(s)	30 Tex. Admin. Code § 290.43(c)(2)	
Violation Description	Failed to secure the ground storage tank's roof hatch. Specifically, it was documented during the investigation that there was no lock on the roof hatch.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 Failure to secure the roof hatch could expose customers of the water supply to insignificant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the date of the investigation, June 18, 2007 to the screening date, August 6, 2007.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of New Home
Case ID No. 34375
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$25	18-Jun-2007	30-Sep-2008	1.3	\$0	\$2	\$2
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

The delayed costs include the amount to lock the ground storage tank, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$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

\$25

TOTAL

\$2

Screening Date	6-Aug-2007	Docket No.	2007-1263-PWS-E	PCW
Respondent	City of New Home	Policy Revision 2 (September 2002)		
Case ID No.	34375	PCW Revision June 26, 2007		
Reg. Ent. Reference No.	RN101389146			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Tel Croston			
Violation Number	5			
Rule Cite(s)	30 Tex. Admin. Code § 290.46(m)			
Violation Description	Failed to initiate maintenance and 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, there was a large area of rust on the bottom of the elevated storage tank, the support beams of the ground storage tank were rusting apart, there were holes in the top of the ground storage tank and the piping in the pump house was rusted beyond repair.			
Base Penalty	\$1,000			

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential	x		10%

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	If the system's facilities and equipment are not fully maintained, customers of the water supply could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.				

Adjustment \$900

\$100

Violation Events

Number of Violation Events	1	Number of violation days	49	Violation Base Penalty	\$100												
mark only one with an x	<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		monthly		quarterly	x	semiannual		annual		single event					
daily																	
monthly																	
quarterly	x																
semiannual																	
annual																	
single event																	
One quarterly event is recommended from the date of the investigation, June 18, 2007, to the screening date, August 6, 2007.																	

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$336
Violation Final Penalty Total	\$118
This violation Final Assessed Penalty (adjusted for limits)	
\$118	

Economic Benefit Worksheet

Respondent City of New Home
Case ID No. 34375
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$3,500	18-Jun-2007	31-Oct-2008	1.4	\$16	\$320	\$336
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

The delayed costs include the amount to remove the rust on the elevated storage tank, seal the holes on top of the ground storage tank, and replace the support beams on the ground storage tank, and the piping in the pump house, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$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

\$3,500

TOTAL

\$336

Compliance History

Customer/Respondent/Owner-Operator: CN600684245 City Of New Home Classification: AVERAGE Rating: 0.40
 Regulated Entity: RN101389146 CITY OF NEW HOME Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1530004
 WATER LICENSING LICENSE 1530004
 Location: 106 East Broadway, New Home, Lynn County, Tx.
 TCEQ Region: REGION 02 - LUBBOCK
 Date Compliance History Prepared: August 07, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: August 07, 2002 to August 07, 2007
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Tel Croston Phone: 239-5717

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 | 02/27/2003 | (25964) |
| 2 | 04/21/2005 | (374667) |
| 3 | 11/01/2005 | (432933) |
| 4 | 03/24/2006 | (460267) |
| 5 | 05/30/2006 | (480241) |
| 6 | 07/21/2006 | (564643) |
| 7 | 11/03/2006 | (565229) |
| 8 | 03/01/2007 | (565239) |
| 9 | 05/21/2007 | (565254) |
| 10 | 07/16/2007 | (566577) |
| 11 | 07/20/2007 | (567178) |

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

Date:	09/27/2005	(432933)		
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(2)			
Description:	Failure to lock the GS hatch.			
Date:	11/01/2005	(432933)		
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)			
Description:	Failure to obtain sanitary control easements.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(8)			
	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)			
	30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]			
Description:	Failure to maintain the elevated storage tank (EST).			
Date:	07/19/2006	(564643)		
Self Report?	NO		Classification:	Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: Violated the maximum contaminant level for Arsenic in the second quarter of 2006.

Date 11/03/2006 (565229)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: Violated the maximum contaminant level for Arsenic in the third quarter of 2006.

Date 03/01/2007 (565239)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: Violated the maximum contaminant level for Arsenic in the fourth quarter of 2006.

Date 05/21/2007 (565254)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: Violated the maximum contaminant level for Arsenic in the first quarter of 2007.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF NEW HOME
RN101389146**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-1263-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 New Home ("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 at 106 East Broadway, New Home, Lynn County, Texas (the "Facility") that has approximately 130 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 July 25, 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 Five Hundred Thirty-One Dollars (\$531) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Four Hundred Twenty-Five Dollars (\$425) of the administrative penalty and One Hundred Six Dollars (\$106) 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 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.
9. 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.
10. 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 seal the wellhead with a gasket or sealing compound and failure to provide a well casing vent, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K). Specifically, Well No. 3 did not have a well casing vent and there was a large open seam on top of the wellhead, as documented during an investigation conducted on June 18, 2007.
2. Failed to provide the point of application for disinfection ahead of the ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(2). Specifically, the disinfection point of injection was on the side of the ground storage tank, as documented during an investigation conducted on June 18, 2007.
3. Failed to provide a roof vent on the water storage tank in accordance with American Water Works Association ("AWWA") standards in violation of 30 TEX. ADMIN. CODE § 290.43(c)(1). Specifically, the ground storage tank roof vent did not appear capable of withstanding high winds and the screen was held in place with wire, as documented during an investigation conducted on June 18, 2007.
4. Failed to secure the roof hatch of the ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2). Specifically, no lock was on the roof hatch of the ground storage tank, as documented during an investigation conducted on June 18, 2007.

5. Failed to initiate maintenance and 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). Specifically, there was a large area of rust on the bottom of the elevated storage tank, the support beams of the ground storage tank were rusting apart, there were holes in the top of the ground storage tank and the piping in the pump house was rusted beyond repair, as documented during an investigation conducted on June 18, 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 New Home, Docket No. 2007-1263-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 30 days after the effective date of this Agreed Order:
 - i. Install a well casing vent for Well No. 3 and seal the open seam on the wellhead at Well No. 3, as required by 30 TEX. ADMIN. CODE § 290.41;
 - ii. Provide the ground storage tank with a vent and screen that meet AWWA standards, as required by 30 TEX. ADMIN. CODE § 290.43; and
 - iii. Install a lock on the roof hatch of the ground storage tank, as required by 30 TEX. ADMIN. CODE. § 290.43.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification, as detailed in Ordering Provisions No. 2.d. below, include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions No. 2.a.
 - c. Within 60 days after the effective date of this Agreed Order:

- i. Install the point of application for disinfection on the well discharge line ahead of the ground storage tank, as required by 30 TEX. ADMIN. CODE § 290.42; and
 - ii. Refurbish the elevated and ground storage tanks so that there is no sign of rust, and replace the rusted pipes in the pump house, as required by 30 TEX. ADMIN. CODE § 290.46.
- d. Within 75 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 records to demonstrate compliance with Ordering Provisions No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following language:

"I certify under penalty of law that I have personally examined and am 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
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

- 3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/21/2008
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.



Signature

3-3-08
Date

David Bandy
Name (Printed or typed)
Authorized Representative of
City of New Home

Mayor Pro Tem
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

