

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0462-MLM-E **TCEQ ID:** RN101180883 **CASE NO.:** 35570
RESPONDENT NAME: City of Brazos Country

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 checked="" 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 checked="" type="checkbox"/> PUBLIC WATER UTILITY
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Brazos Country, on Standing Oaks Road, 1.5 miles southeast of Interstate Highway 10 off Chew Road, southeast of Sealy, Austin County</p> <p>TYPE OF OPERATION: Public water supply and water utility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, 512-239-1482; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Charles A. Kalkomey, Mayor, City of Brazos Country, 316 Pecan Grove Road, Sealy, Texas 77474 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 13, 2008</p> <p>Date of NOE Relating to this Case: March 7, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to provide a pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to provide a written planning report to the Commission that clearly explains how the utility that has exceeded 85% of its capacity will provide the expected service demands to the remaining areas within the boundaries of its certified area [30 TEX. ADMIN. CODE § 291.93(3) and TEX. WATER CODE § 13.139(d)].</p>	<p>Total Assessed: \$272</p> <p>Total Deferred: \$53 <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: \$219</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 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 120 days after the effective date of this Agreed Order, submit an administratively and technically complete report addressing the 85% capacity planning requirement, in accordance with 30 TEX. ADMIN. CODE § 291.93 and TEX. WATER CODE § 13.139.</p> <p>b. Within 135 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 150 days after the effective date of this Agreed Order:</p> <p>i. Provide a total storage capacity of 200 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and</p> <p>ii. Provide a pressure tank capacity of 20 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45.</p> <p>d. Within 165 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 c.</p>

Additional ID No(s): PWS ID No. 0080025



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision January 29, 2008

DATES	Assigned	17-Mar-2008			
	PCW	19-Mar-2008	Screening	19-Mar-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	City of Brazos Country				
Reg. Ent. Ref. No.	RN101180883				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	35570	No. of Violations	2		
Docket No.	2008-0462-MLM-E	Order Type	1660		
Media Program(s)	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeoduru		
Multi-Media	Public Water Utilities	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	\$200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	9% Enhancement	Subtotals 2, 3, & 7	\$18
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Notes: Enhancement is due to one prior Notice of Violation ("NOV") with same or similar violations as those in the current enforcement action and two NOVs with dissimilar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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
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Total EB Amounts	\$731	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$218
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$218
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$218
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DEFERRAL	20%	Reduction	Adjustment	-\$43
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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	\$175
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Screening Date 19-Mar-2008	Docket No. 2008-0462-MLM-E	PCW
Respondent City of Brazos Country	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35570	<i>PCW Revision January 29, 2008</i>	
Reg. Ent. Reference No. RN101180883		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		

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 <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 9%

>> **Repeat Violator (Subtotal 3)**

N/A	Adjustment Percentage (Subtotal 3) 0%
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>> **Compliance History Person Classification (Subtotal 7)**

N/A	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes	Enhancement is due to one prior Notice of Violation ("NOV") with same or similar violations as those in the current enforcement action and two NOV's with dissimilar violations.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 9%

Screening Date	19-Mar-2008	Docket No.	2008-0462-MLM-E	PCW
Respondent	City of Brazos Country	Policy Revision 2 (September 2002)		
Case ID No.	35570	PCW Revision January 29, 2008		
Reg. Ent. Reference No.	RN101180883			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Andrea Linson-Mgbeoduru			

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and Tex. Health & Safety Code § 341.0315(c)
Violation Description	Failed to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the investigation, it was documented that the Facility provided a total storage capacity of 21,500 gallons. Based on 140 connections, the Facility is required to provide a total storage capacity of 28,000 gallons, which is a 23% deficiency.
Base Penalty	\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential		x		
				Percent 10%	

>> Programmatic Matrix

Matrix Notes	Falsification			
	Major	Moderate	Minor	
				Percent 0%
Failure to provide a minimum total storage capacity of 200 gallons per connection could result in the system's inability to provide a safe and adequate water supply exposing customers to a significant amount 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	35
mark only one with an x	daily		Violation Base Penalty \$100
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

One quarterly event is recommended, from the date of the investigation, February 13, 2008, to the screening date, March 19, 2008.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$365	Violation Final Penalty Total \$109
This violation Final Assessed Penalty (adjusted for limits) \$109	

Economic Benefit Worksheet

Respondent: City of Brazos Country
Case ID No.: 35570
Reg. Ent. Reference No.: RN101180883
Media: Public Water Supply
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$5,000	13-Feb-2008	28-Feb-2009	1.0	\$17	\$348	\$365
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 cost includes the amount necessary to provide a minimum storage capacity of 200 gallons per connection. The date required is the investigation date. The final date is the estimated compliance date.

Avoided Costs

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

	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

\$5,000

TOTAL

\$365

Screening Date 19-Mar-2008	Docket No. 2008-0462-MLM-E	PCW
Respondent City of Brazos Country	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 35570	<small>PCW Revision January 29, 2008</small>	
Reg. Ent. Reference No. RN101180883		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(C)(iv) and Tex. Health & Safety Code § 341.0315(c)	
Violation Description	Failed to provide a pressure tank capacity of 20 gallons per connection. Specifically, at the time of the investigation, it was documented that the Facility provided a pressure tank capacity of 2,500 gallons. Based on 140 connections, the Facility is required to provide a minimum pressure tank capacity of 2,800 gallons, which is an 11% deficiency.	
Base Penalty		\$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"/>	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"/>	
				Percent <input type="text" value="0%"/>
Matrix Notes	Failing to provide the minimum pressure tank capacity could result in low pressure and water outages exposing customers to a significant amount of contaminants which would not exceed levels that are protective of human health.			

Adjustment

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="35"/>	Number of violation days												
<small>mark only one with an x</small> <table border="1" style="border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="width: 40px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="padding: 2px;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$100"/>	
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	x													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													

One quarterly event is recommended, from the date of the investigation, February 13, 2008, to the screening date, March 19, 2008.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$365"/>	Violation Final Penalty Total <input type="text" value="\$109"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$109"/>	

Economic Benefit Worksheet

Respondent: City of Brazos Country
Case ID No.: 35570
Reg. Ent. Reference No.: RN101180883
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

Equipment	\$5,000	13-Feb-2008	28-Feb-2009	1.0	\$17	\$348	\$365
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 cost includes the amount necessary to provide a minimum pressure tank capacity of 20 gallons per connection. The date required is the investigation date. The final date is the estimated compliance date.

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

\$365



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

DATES	Assigned	17-Mar-2008	Screening	19-Mar-2008	EPA Due	
	PCW	19-Mar-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Brazos Country		
Reg. Ent. Ref. No.	RN101180883		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35570	No. of Violations	1
Docket No.	2008-0462-MLM-E	Order Type	1660
Media Program(s)	Public Water Utilities	Enf. Coordinator	Andrea Linson-Mgbeoduru
Multi-Media	Public Water Supply	EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit	Minimum	\$0	Maximum
			\$500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$50
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	9% Enhancement	Subtotals 2, 3, & 7	\$4
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Notes: Enhancement is due to one prior Notice of Violation ("NOV") with same or similar violations as those in the current enforcement action and two NOV's with dissimilar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	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.

Total EB Amounts	\$33	0% Enhancement*	Subtotal 6	\$0
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Approx. Cost of Compliance: \$700
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$54
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$54
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$54
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DEFERRAL	20% Reduction	Adjustment	-\$10
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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	\$44
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Screening Date: 19-Mar-2008

Docket No.: 2008-0462-MLM-E

PCW

Respondent: City of Brazos Country

Policy Revision 2 (September 2002)

Case ID No.: 35570

PCW Revision January 29, 2008

Reg. Ent. Reference No.: RN101180883

Media [Statute]: Public Water Utilities

Enf. Coordinator: Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 9%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to one prior Notice of Violation ("NOV") with same or similar violations as those in the current enforcement action and two NOVs with dissimilar violations.

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

Screening Date 19-Mar-2008

Docket No. 2008-0462-MLM-E

PCW

Respondent City of Brazos Country

Policy Revision 2 (September 2002)

Case ID No. 35570

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101180883

Media [Statute] Public Water Utilities

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: City of Brazos Country
Case ID No.: 35570
Reg. Ent. Reference No.: RN101180883
Media: Public Water Utilities
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$600	13-Feb-2008	31-Jan-2009	1.0	\$29	n/a	\$29

Notes for DELAYED costs The delayed cost includes the amount necessary to submit a planning report. The date required is the investigation date. The final date is the estimated compliance date.

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	\$600	TOTAL	\$29
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Compliance History

Customer/Respondent/Owner-Operator:	CN602828154 City of Brazos Country	Classification:	Rating:
Regulated Entity:	RN101180883 CITY OF BRAZOS	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	0080025 0080025
Location:	ON STANDING OAKS ROAD, 1.5 MILES SOUTHEAST OF I-10 OFF CHEW ROAD, SOUTHEAST OF SEALY, AUSTIN COUNTY, TEXAS (GT MAP 663C)		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	March 18, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 17, 2003 to March 17, 2008		

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

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 04/28/2005 (378879)
 - 2 03/12/2008 (618204)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	05/19/2003 (34852)		Classification: Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to maintain all distribution system lines in a watertight condition.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)		
Description:	Failure to provide a pressure tank inspection report showing that the pressure tank had been inspected internally.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)		
Description:	Failure to inspect the exterior and interior of the ground storage tank.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)		
Description:	Failure to perform at least once every seven days, chlorine residual tests on water collected from various locations within the distribution system.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)		
Description:	Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchase treated water shall maintain a record of the amount of water treated each week.		

Date: 02/28/2005 (378879)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all distribution system lines in a watertight condition.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failure to inspect the exterior and interior of the ground storage tank.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)

Description: Failure to perform at least once every seven days, chlorine residual tests on water collected from various locations within the distribution system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)

Description: Systems that serve fewer than 250 connections, serve fewer than 750 people, and use only groundwater or purchase treated water shall maintain a record of the amount of water treated each week.

Date: 04/27/2005 (378879)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to provide a pressure tank inspection report showing that the pressure tank had been inspected internally.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to repair or replace the leaking pressure release valve located at well #2.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain the entity by not removing the disconnected pressure tank.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)

Description: Failure to provide a total storage capacity of 200 gallons per connection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)

Description: Failure to provide a pressure tank capacity of 20 gallons per connection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failure to submit to a planning report when reaching 85% of capacity requirements.

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 BRAZOS COUNTRY
RN101180883**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-0462-MLM-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 Brazos Country ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13. 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 on Standing Oaks Road, 1.5 miles southeast of Interstate Highway 10 off Chew Road, southeast of Sealy, Austin County, Texas (the "Facility") that has approximately 140 service connections and serves at least 25 people per day for at least 60 days per year.
2. The City owns and operates, in Texas and for compensation, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use. The City is not exempt from regulation under TEX. WATER CODE ch. 13 or the rules of the Commission.
3. 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.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about March 12, 2008.
5. 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.

6. An administrative penalty in the amount of Two Hundred Seventy-Two Dollars (\$272) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Hundred Nineteen Dollars (\$219) of the administrative penalty and Fifty-Three Dollars (\$53) 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.
7. 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.
8. 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.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on February 13, 2008.
2. Failed to provide a pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on February 13, 2008.
3. Failed to provide a written planning report to the Commission that clearly explains how the utility that has exceeded 85% of its capacity will provide the expected service demands to the remaining areas within the boundaries of its certified area, in violation of 30 TEX. ADMIN. CODE § 291.93(3) and TEX. WATER CODE § 13.139(d), as documented during an investigation conducted on February 13, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 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 Brazos Country, Docket No. 2008-0462-MLM-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 120 days after the effective date of this Agreed Order, submit an administratively and technically complete report addressing the 85% capacity planning requirement, in accordance with 30 TEX. ADMIN. CODE § 291.93 and TEX. WATER CODE § 13.139. Submit any information regarding this provision to:

Utilities & Districts Section
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 135 days after the effective date of this Agreed Order, submit written certification as described in 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 150 days after the effective date of this Agreed Order:
 - i. Provide a total storage capacity of 200 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide a pressure tank capacity of 20 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45.

- d. Within 165 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. 2.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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

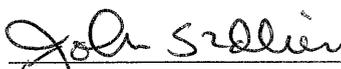
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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



For the Executive Director

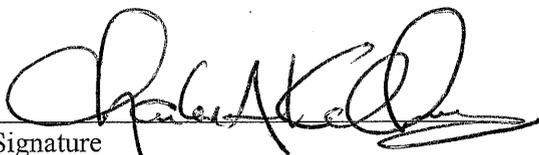
7/12/2008
Date

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

4/17/08
Date

Charles A. Kalkomey
Name (Printed or typed)
Authorized Representative of
City of Brazos Country

Mayor
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.

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