

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0044-PWS-E **TCEQ ID:** RN101386761 **CASE NO.:** 35176
RESPONDENT NAME: City of Wortham

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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 Wortham Public Water System, 210 West San Marcos Street, Wortham, Freestone County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket Number 2005-0475-MLM-E.</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 June 16, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 490-3096; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Judy Edwards, Mayor, City of Wortham, P.O. Box 186, Wortham, Texas 76693 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: March 21, 2007</p> <p>Date of NOE Relating to this Case: July 6, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to properly install air release devices in the distribution system. Specifically, at the time of the investigation, it was documented that the air release device located on the distribution line at State Highway 14 was enclosed in a below ground vault and the air vent did not have a screen [30 TEX. ADMIN. CODE § 290.44(d)(1)].</p> <p>2) Failure to maintain water works operation and maintenance records and make them available to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, verification of American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 for chemical additives and annual tank inspection forms for the large and small clearwells were not available for review [30 TEX. ADMIN. CODE § 290.46(f)(2)].</p> <p>3) Failure to provide a properly constructed intruder-resistant fence for the system's storage tanks. Specifically, at the time of the investigation, it was documented that the fence at the Main Plant had barbed wire hanging down from the fence and the gate leading to the holding reservoir had fallen down [30 TEX. ADMIN. CODE § 290.43(e)].</p>	<p>Total Assessed: \$5,301</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$5,301</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>Findings Orders Justification:</p> <p>The Respondent received three prior NOVs for the same or similar violations as those in the current enforcement action.</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 16-mesh or finer corrosion-resistant screen on the roof vent of the ground storage tank;</p> <p>ii. Develop and begin maintaining properly completed monthly water works operations reports, including but not limited to verification that the calcium hypochlorite, chlorine gas and liquid ammonia sulfate used as chemical additives meet ANSI/NSF Standard 60 and annual tank inspection forms for the large and small clearwells; and</p> <p>iii. Ensure that all air release devices are installed in such a manner as to preclude the possibility of submergence or possible entrance of contaminants, including the air release device located on the distribution line at State Highway 14.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Repair or replace the gate leading to the holding reservoir and ensure that the fence at the Main Plant has three strands of barbed wire on the top; and</p> <p>ii. Install an air gap or a reduced pressure principle backflow prevention assembly at the Wortham Clinic.</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance that demonstrates compliance with Ordering Provision c.</p> <p>e. Within 90 days after the effective date of</p>

<p>4) Failure to provide a backflow prevention assembly at any residence or establishment where an actual or potential contamination hazard identified in 30 TEX. ADMIN. CODE § 290.47(i) exists. Specifically, at the time of the investigation, it was documented that the backflow prevention assembly installed at the Wortham Clinic is a double check valve backflow prevention assembly. The required assembly for this type of facility should be an air gap or a reduced pressure principle backflow prevention assembly [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].</p> <p>5) Failure to provide the vent opening on the ground storage tank with a 16-mesh or finer corrosion-resistant screen. Specifically, at the time of the investigation, it was documented that the screen on the small clearwell was rusted [30 TEX. ADMIN. CODE § 290.43(c)(1)].</p> <p>6) Failure to provide a minimum of 0.6 gallons per minute ("gpm") per connection of the production capacity for a purchased water system. Specifically, the system requires a production capacity of 361.8 gpm for 603 connections served by the system; however, the contract only provides a maximum of 347 gpm, which is a 4% deficiency [30 TEX. ADMIN. CODE § 290.45(f)(4)].</p>		<p>this Agreed Order, provide a production capacity of 0.6 gpm per connection. If the additional capacity to meet the 0.6 gpm per connection cannot be obtained from the water system's wholesaler through a new or amended contract, additional capacity must be obtained from water purchase contract with other entities, a new well, or surface water treatment facilities.</p> <p>f. Within 105 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 e.</p>
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Additional ID No(s): PWS ID No. 0810003



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	19-Dec-2007	Screening	4-Jan-2008	EPA Due	
	PCW	4-Jan-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Wortham
Reg. Ent. Ref. No.	RN101386761
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35176	No. of Violations	6
Docket No.	2008-0044-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
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	\$3,760
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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	41% Enhancement	Subtotals 2, 3, & 7	\$1,541
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Notes: The penalty enhancement is due to three prior NOVs for the same or similar violations as those in the current enforcement action, three prior NOVs for non-similar violations and one agreed final enforcement order containing a denial of liability.

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 EDRP/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	\$419	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,301
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$5,301
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,301
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,301
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Screening Date 4-Jan-2008	Docket No. 2008-0044-PWS-E	PCW
Respondent City of Wortham		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35176		<i>PCW Revision June 26, 2007</i>
Reg. Ent. Reference No. RN101386761		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		

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>	3	15%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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%
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 judgments 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) 41%

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

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

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes	The penalty enhancement is due to three prior NOVs for the same or similar violations as those in the current enforcement action, three prior NOVs for non-similar violations and one agreed final enforcement order containing a denial of liability.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%

Screening Date 4-Jan-2008 **Docket No.** 2008-0044-PWS-E **PCW**
Respondent City of Wortham *Policy Revision 2 (September 2002)*
Case ID No. 35176 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101386761
Media [Statute] Public Water Supply
Enf. Coordinator Yuliya Dunaway

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="10%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

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

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

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 Wortham
 Case ID No. 35176
 Reg. Ent. Reference No. RN101386761
 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
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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	\$300	21-Mar-2007	1-Oct-2008	1.5	\$2	\$31	\$32
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 properly install the air vent on the automatic air release valve, 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

\$300

TOTAL

\$32

Screening Date 4-Jan-2008	Docket No. 2008-0044-PWS-E	PCW
Respondent City of Wortham		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 35176		<small>PCW Revision June 26, 2007</small>
Reg. Ent. Reference No. RN101386761		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	30 Tex. Admin. Code § 290.46(f)(2)	
Violation Description	Failed to maintain water works operation and maintenance records and make them available to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, verification of ANSI/NSF Standard 60 for chemical additives and annual tank inspection forms for the large and small clearwells were not available for review.	
	Base Penalty	<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Major	Moderate	Minor	Percent <input type="text" value="1%"/>
Falsification	<input type="text"/>	<input type="text"/>	x	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$22"/>	Violation Final Penalty Total <input type="text" value="\$14"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$14"/>	

Economic Benefit Worksheet

Respondent: City of Wortham
 Case ID No. 35176
 Reg. Ent. Reference No. RN101386761
 Media: Public Water Supply
 Violation No. 2

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
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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	\$300	21-Mar-2007	1-Sep-2008	1.5	\$22	n/a	\$22
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 maintain all water works operation records and reports, 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

\$300

TOTAL

\$22

Screening Date 4-Jan-2008	Docket No. 2008-0044-PWS-E	PCW			
Respondent City of Wortham		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 35176		<small>PCW Revision June 26, 2007</small>			
Reg. Ent. Reference No. RN101386761					
Media [Statute] Public Water Supply					
Enf. Coordinator Yuliya Dunaway					
Violation Number <input type="text" value="3"/>					
Rule Cite(s)	30 Tex. Admin. Code § 290.43(e)				
Violation Description	Failed to provide a properly constructed intruder-resistant fence for the system's storage tanks. Specifically, at the time of the investigation, it was documented that the fence at the Main Plant had barbed wire hanging down from the fence and the gate leading to the holding reservoir had fallen down.				
	Base Penalty	<input type="text" value="\$1,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major Moderate Minor			
	Actual	<input type="text"/>	<input type="text"/>		
	Potential	<input 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 proper intruder-resistant fence for the system's tanks may allow persons to enter and vandalize the storage tanks which may compromise the system's ability to provide a safe and adequate water supply exposing customers of the water system to a significant amount of contaminants which would not exceed levels that are protective of human health.				
	Adjustment	<input type="text" value="\$900"/>			
		<input type="text" value="\$100"/>			
Violation Events					
	Number of Violation Events	<input type="text" value="4"/>	Number of violation days	<input type="text" value="289"/>	
<small>mark only one with an x</small>		daily	<input type="text"/>		
		monthly	<input type="text"/>		
		quarterly	<input type="text" value="X"/>		
		semiannual	<input type="text"/>		
		annual	<input type="text"/>		
		single event	<input type="text"/>		
	Violation Base Penalty	<input type="text" value="\$400"/>			
	Four quarterly events are recommended from the date of the investigation, March 21, 2007, to the date of screening, January 4, 2008.				
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount	<input type="text" value="\$215"/>	Violation Final Penalty Total	<input type="text" value="\$564"/>		
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$564"/>		

Economic Benefit Worksheet

Respondent: City of Wortham
 Case ID No. 35176
 Reg. Ent. Reference No. RN101386761
 Media: Public Water Supply
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,000	21-Mar-2007	1-Oct-2008	1.5	\$10	\$205	\$215
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 equip the system's storage tanks with a proper intruder-resistant fence, 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	\$2,000	TOTAL	\$215
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Screening Date 4-Jan-2008 **Docket No.** 2008-0044-PWS-E **PCW**
Respondent City of Wortham *Policy Revision 2 (September 2002)*
Case ID No. 35176 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101386761
Media [Statute] Public Water Supply
Enf. Coordinator Yuliya Dunaway

Violation Number

Rule Cite(s)

Violation Description
 Failed to provide a backflow prevention assembly at any residence or establishment where an actual or potential contamination hazard identified in 30 Tex. Admin. Code § 290.47(i) exists. Specifically, at the time of the investigation, it was documented that the backflow prevention assembly installed at the Wortham Clinic is a double check valve backflow prevention assembly. The required assembly for this type of facility should be an air gap or a reduced pressure principle backflow prevention assembly.

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="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes
 Without proper backflow prevention assemblies installed, backflow and siphonage could occur and customers of the water supply could be exposed to a significant amount of contaminants which could exceed levels protective of human health.

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

Violation Base Penalty

Ten monthly events are recommended from the date of the investigation, March 21, 2007, to the date of screening, January 4, 2008.

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 Wortham
 Case ID No. 35176
 Reg. Ent. Reference No. RN101386761
 Media: Public Water Supply
 Violation No. 4

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
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Delayed Costs

Equipment	\$1,000	21-Mar-2007	1-Oct-2008	1.5	\$5	\$102	\$107
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 the backflow prevention device which is approved for use at medical facilities, 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

\$1,000

TOTAL

\$107

Screening Date 4-Jan-2008	Docket No. 2008-0044-PWS-E	PCW		
Respondent City of Wortham		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 35176		<i>PCW Revision June 26, 2007</i>		
Reg. Ent. Reference No. RN101386761				
Media [Statute] Public Water Supply				
Enf. Coordinator Yuliya Dunaway				
Violation Number <input type="text" value="5"/>				
Rule Cite(s)	30 Tex. Admin. Code § 290.43(c)(1)			
Violation Description	Failed to provide the vent opening on the ground storage tank with a 16-mesh or finer corrosion-resistant screen. Specifically, at the time of the investigation, it was documented that the screen on the small clearwell was rusted.			
	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 properly maintain the vent on the ground storage tank could allow a significant amount of pollutants to enter the system which would not exceed levels that are protective of human health.			
	Adjustment	<input type="text" value="\$900"/>		
			<input type="text" value="\$100"/>	
Violation Events				
	Number of Violation Events	<input type="text" value="4"/>	<input type="text" value="289"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$400"/>
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="text" value="x"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	Four quarterly events are recommended from the date of the investigation, March 21, 2007, to the date of screening, January 4, 2008.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$20"/>	Violation Final Penalty Total	<input type="text" value="\$564"/>	
	This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$564"/>	

Economic Benefit Worksheet

Respondent: City of Wortham
 Case ID No. 35176
 Reg. Ent. Reference No. RN101386761
 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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	21-Mar-2007	1-Sep-2008	1.5	\$1	\$19	\$20
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 equip the ground storage tank with a 16-mesh or finer corrosion-resistant screen, 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

\$200

TOTAL

\$20

Screening Date 4-Jan-2008	Docket No. 2008-0044-PWS-E	PCW
Respondent City of Wortham		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 35176		<small>PCW Revision June 26, 2007</small>
Reg. Ent. Reference No. RN101386761		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		

Violation Number	6
Rule Cite(s)	30 Tex. Admin. Code § 290.45(f)(4)
Violation Description	Failed to provide a minimum of 0.6 gallons per minute ("gpm") per connection of the production capacity for a purchased water system. Specifically, the system requires a production capacity of 361.8 gpm for 603 connections served by the system; however, the contract only provides a maximum of 347 gpm, which is a 4% deficiency.

Base Penalty

>> 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 type="text"/>	<input checked="" type="text" value="x"/>	Percent <input style="width: 50px;" type="text" value="5%"/>

>> Programmatic Matrix

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

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	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="text" value="x"/>

Violation Base Penalty

One single event is recommended.

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

Estimated EB Amount <input style="width: 150px;" type="text" value="\$23"/>	Violation Final Penalty Total <input style="width: 100px;" type="text" value="\$70"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 100px;" type="text" value="\$70"/>	

Economic Benefit Worksheet

Respondent City of Wortham
Case ID No. 35176
Reg. Ent. Reference No. RN101386761
Media Public Water Supply
Violation No. 6

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)	\$200	21-Mar-2007	1-Nov-2008	1.6	\$1	\$22	\$23
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 minimum production capacity for a purchased system, 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

\$200

TOTAL

\$23

Compliance History

Customer/Respondent/Owner-Operator:	CN600633341 City of Wortham	Classification: AVERAGE	Rating: 2.33
Regulated Entity:	RN101386761 CITY OF WORTHAM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	0810003 0810003
Location:	210 WEST SAN MARCOS STREET, WORTHAM, FREESTONE COUNTY, TX		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	January 04, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 04, 2003 to January 04, 2008		

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

Name: Yuliya Dunaway Phone: (210) 403-4077

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: 10/11/2004	ADMINORDER 2003-0579-PWS-E
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)	
Description: Failed to properly install the air vent on the automatic air release valves on the treated water transmission/distribution line that is located along State Highway 14 between the City of Mexia and the City of Wortham.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)	
Description: Failed to have all backflow prevention assemblies, including those at the City's water and wastewater treatment plants, tested annually by a certified backflow prevention assembly tester and certified to be operating within specifications.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)	
Description: Failed to provide adequate backflow protection at facilities served by this water system, which includes the local medical clinic.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)	
Description: Failed to have an established customer service inspection program, to conduct a customer service inspection, and to complete a Customer Service Inspection Certificate prior to providing continuous water service to three new connections.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2) 30 TAC Chapter 290, SubChapter D 290.46(m)(4)	
Description: Failed to maintain all water plant facilities, including the north raw water pump at New Wortham Lake, the backflow prevention assembly on the treated water supply line in the treatment plant chlorine room, the rate-of-flow controller for No. 1 filter, and the plastic water sample supply line in watertight condition.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)	
Description: Failed to provide the roof hatch on the 200,000 gallon clearwell storage tank at the water treatment plant with a gasket that was sufficient to form a positive seal between the roof hatch cover and the top edge of the roof hatch curbing.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v) 30 TAC Chapter 290, SubChapter D 290.46(s)	
Description: Failed to properly conduct calibration checks of the pH meter, benchtop turbidimeter,	

continuous on-line turbidimeter, continuous on-line disinfectant (chlorine) residual analyzer, and the filter rate-of-flow controllers and flow measuring devices for the raw water and the treated water.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(7)(A)

Description: Failed to provide each chemical feeder with an operational standby or reserve unit.

Classification: Moderate

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

30 TAC Chapter 290, SubChapter D 290.46(f)(3)

Description: Failed to up-date the plant operations manual with telephone numbers of water system personnel, system officials, and local/state/federal agencies to be contacted in the event of an emergency and other plant operation instructions.

Classification: Moderate

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

Description: Failed to post a system ownership sign at the raw water production facilities at New Wortham Lake that includes an emergency telephone number on the sign posted at the water treatment plant.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)

Description: Failed to establish and mark a restricted zone of 200 foot radius from the raw water intake works at New Wortham Lake that prohibits all recreational activities and trespassing in this area.

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.)

N/A	1	06/03/2003	(35549)
	2	01/22/2004	(259642)
	3	03/25/2004	(266042)
	4	05/12/2004	(270856)
	5	07/02/2004	(462663)
	6	01/20/2005	(334827)
	7	03/02/2005	(464018)
	8	04/06/2005	(376084)
	9	06/15/2005	(464024)
	10	02/15/2006	(439386)
	11	03/14/2006	(458143)
	12	05/03/2006	(462378)
	13	05/04/2006	(464895)
	14	06/19/2006	(482613)
	15	01/12/2007	(536595)
	16	07/06/2007	(554373)
	17	07/13/2007	(563699)
	18	07/13/2007	(565360)
	19	07/13/2007	(563714)
	20	07/13/2007	(565453)
	21	07/13/2007	(567708)
	22	07/13/2007	(565335)
	23	07/13/2007	(563703)

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

Date: 01/22/2004 (259642)

Self Report? NO

Classification: Minor

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

Description: Failure to have an established customer service inspection program.

Self Report? NO

Classification: Minor

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

Description: Failure to properly install air release devices in the distribution system.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failure to equip the clear well with a liquid level indicator at the tank site.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
 Description: Failure to post a legible sign at the water plant.
 Failure to post a legible sign at the water plant.
 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: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
 Description: Failure to calibrate the backwash flow meter.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)
 Description: Failure to screen the air vents on the automatic air release devices in the distribution system.
 Date: 05/04/2004 (270856)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
 Description: Failure to have an established customer service inspection program.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
 Description: Failure to have all backflow prevention assemblies which are installed to provide protection against health hazards to be tested annually by a recognized backflow prevention assembly tester.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
 Description: Failure to enforce the City's cross-connection control program and to require adequate backflow protection at facilities served by this water system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121
 Description: Failure to maintain the microbiological monitoring plan.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain the service pumps at the water treatment plant.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)
 Description: Failure to properly install air release devices in the distribution system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 Description: Failure to provide accessible water system records that needed to be reviewed at the time of this investigation.
 Date: 07/02/2004 (462663)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2004.
 Date: 03/03/2005 (464018)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes in the fourth quarter of 2004.
 Date: 06/15/2005 (464024)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes in the first quarter of 2005.
 Date: 02/08/2006 (439386)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
 Description: Failure to test all required backflow prevention assemblies at least annually.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)
 Description: Failure to provide adequate containment facilities for all liquid chemical storage tanks.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)
 Description: Failure to properly identify all water treatment plant piping.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)		
Description:	Failure by the regulated entity treating surface water and serving no more than 1,000 connections to employ a second operator who holds a Class "C" or higher surface water license in addition to a Class "B" or higher surface water licensed operator.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to maintain and make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.		
Self Report?	NO	Classification:	Major
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		
Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(m) 30 TAC Chapter 290, SubChapter D 290.43(e)		
Description:	Failure to provide an intruder-resistant fence in order to protect the SWTP, elevated tank, and ground storage tank.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(III)		
Description:	Failure to submit at least 2 samples of water collected from different locations in the distribution system regularly each month to a TCEQ certified laboratory for bacteriological analysis as required by this agency's Drinking Water Standards.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.109(g)(4)		
Description:	Failure to notify the public of a bacteriological monitoring violation for the month of November 2004.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(15)(E)		
Description:	Failure to provide facilities to monitor the depth of the sludge-blanket at a sludge-blanket clarifier plant.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(I)		
Description:	Failure to equip each filter unit with a manually adjustable rate-of-flow controller with rate-of-flow indication or flow control valves with indicators, with the exception of declining rate filter units.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)		
Description:	Failure to provide an air gap connection to waste for filter-to-waste connections.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to maintain distribution system lines, water storage and pressure maintenance facilities, and related appurtenances in a watertight condition and be free of excessive solids.		

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 WORTHAM
RN101386761**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0044-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Wortham (“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 presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a public water supply at 210 West San Marcos Street in Wortham, Freestone County, Texas (the “Facility”) that has approximately 603 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation on March 21, 2007, TCEQ staff documented that the City did not properly install air release devices in the distribution system. Specifically, at the time of the investigation, it was documented that air release device located on the distribution line at State Highway 14 was enclosed in a below ground vault and did not have a screen.
3. During an investigation on March 21, 2007, TCEQ staff documented that the City did not maintain water works operation and maintenance records and make them available to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, verification of American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 for chemical additives and annual tank inspection forms for the large and small clearwells were not available for review.
4. During an investigation on March 21, 2007, TCEQ staff documented that the City did not provide a properly constructed intruder-resistant fence for the system's storage tanks. Specifically, at the time of the investigation, it was documented that the fence at the Main Plant has barbed wire hanging down from the fence and the gate leading to the holding reservoir has fallen down.
5. During an investigation on March 21, 2007, TCEQ staff documented that the City did not provide a backflow prevention assembly at any residence or establishment where an actual or potential contamination hazard identified in 30 TEX. ADMIN. CODE § 290.47(i) exists. Specifically, at the time of the investigation, it was documented that the backflow prevention assembly installed at the Wortham Clinic is a double check valve backflow prevention assembly. The required assembly for this type of facility should be an air gap or a reduced pressure principle backflow prevention assembly.
6. During an investigation on March 21, 2007, TCEQ staff documented that the City did not provide the vent opening on the ground storage tank with a 16-mesh or finer corrosion-resistant screen. Specifically, at the time of the investigation, it was documented that the screen on the small clearwell was rusted.
7. During an investigation on March 21, 2007, TCEQ staff documented that the City did not provide a minimum of 0.6 gallons per minute ("gpm") per connection of the production capacity for a purchased water system. Specifically, the system requires a production capacity of 361.8 gpm for 603 connections served by the system; however the contract only provides a maximum of 347 gpm, which is a 4% deficiency.
8. The City received notice of the violations on July 11, 2007.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the City failed to properly install air release devices in the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(1).

3. As evidenced by Findings of Fact No. 3, the City failed to maintain water works operation and maintenance records and make them available to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2).
4. As evidenced by Findings of Fact No. 4, the City failed to provide a properly constructed intruder-resistant fence for the system's storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.43(e).
5. As evidenced by Findings of Fact No. 5, the City failed to provide a backflow prevention assembly at any residence or establishment where an actual or potential contamination hazard identified in 30 TEX. ADMIN. CODE § 290.47(i) exists, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A).
6. As evidenced by Findings of Fact No. 6, the City failed to provide the vent opening on the ground storage tank with a 16-mesh or finer corrosion-resistant screen, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(1).
7. As evidenced by Findings of Fact No. 7, the City failed to provide a minimum of 0.6 gpm per connection of the production capacity for a purchased water system, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(4).
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of Five Thousand Three Hundred One Dollars (\$5,301) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The City has paid the Five Thousand Three Hundred One Dollar (\$5,301) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Five Thousand Three Hundred One Dollars (\$5,301) as set forth in Section II, Paragraph 9 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Wortham, Docket No. 2008-0044-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Install a 16-mesh or finer corrosion-resistant screen on the roof vent of the ground storage tank, as required by 30 TEX. ADMIN. CODE § 290.43;
 - ii. Develop and begin maintaining properly completed monthly water works operations reports, including but not limited to verification that the calcium hypochlorite, chlorine gas and liquid ammonia sulfate used as chemical additives meet ANSI/NSF Standard 60 and annual tank inspection forms for the large and small clearwells, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Ensure that all air release devices are installed in such a manner as to preclude the possibility of submergence or possible entrance of contaminants, including the air release device located on the distribution line at State Highway 14, as required by 30 TEX. ADMIN. CODE § 290.44.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 60 days after the effective date of this Agreed Order:
 - i. Repair or replace the gate leading to the holding reservoir and ensure that the fence at the Main Plant has three strands of barbed wire on the top, as required by 30 TEX. ADMIN. CODE § 290.43;
 - ii. Install an air gap or a reduced pressure principle backflow prevention assembly at the Wortham Clinic, as required by 30 TEX. ADMIN. CODE § 290.44
 - d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance as described below in Ordering Provision No. 2.f., that demonstrates compliance with Ordering Provision No. 2.c.
 - e. Within 90 days after the effective date of this Agreed Order, provide a production capacity of 0.6 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45. If the additional capacity to meet the 0.6 gpm per connection cannot be obtained from the water system's wholesaler through a new or amended contract, additional capacity must

be obtained from water purchase contract with other entities, a new well, or surface water treatment facilities.

- f. Within 105 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.e. 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

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the City if the Executive

Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

6. 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.
7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/18/2008
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Wortham. I am authorized to agree to the attached Agreed Order on behalf of City of Wortham, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, City of Wortham waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

April 1, 2008
Date

Judy Edwards, Mayor
Name (Printed or typed)
Authorized Representative of
City of Wortham

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.

