

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0988-PWS-E TCEQ ID: RN101406916 CASE NO.: 36069

RESPONDENT NAME: City of Lawn

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Lawn Public Water Supply, 150 Main Street, Lawn, Taylor 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 No. 2007-1224-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 December 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Christopher Keffer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5610; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Veronica Burleson, Mayor, City of Lawn, P.O. Box 246, Lawn, Texas 79530-0246 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 18, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 31, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failure to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a), and 290.274(c)].</p>	<p>Total Assessed: \$1,645</p> <p>Total Deferred: \$329 <input checked="" 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: \$116 (remaining \$1,200 due in 12 monthly payments of \$100 each)</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 30 days after the effective date of this Agreed Order, mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying consumers;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data; and</p> <p>c. Within 60 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 Provisions a. and b.</p>

Additional ID No(s): PWS 2210005



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

DATES	Assigned	13-May-2008	Screening	12-Jun-2008	EPA Due	1-Jun-2002
	PCW	17-Jun-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Lawn
Reg. Ent. Ref. No.	RN101406916
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36069	No. of Violations	1
Docket No.	2008-0988-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Christopher Keffer
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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes: Enhancement is due to 20 NOVs with dissimilar violations, 1 final enforcement order containing a denial of liability, and 3 final enforcement orders without a denial of liability.

Culpability Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

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

Total EB Amounts Enhancement* Subtotal 6
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 12-Jun-2008

Docket No. 2008-0988-PWS-E

PCW

Respondent City of Lawn

Policy Revision 2 (September 2002)

Case ID No. 36069

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101406916

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

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>	0	0%
	Other written NOVs	20	40%
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	3	75%
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%

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) 135%

>> **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 20 NOVs with dissimilar violations, 1 final enforcement order containing a denial of liability, and 3 final enforcement orders without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 135%

Screening Date 12-Jun-2008	Docket No. 2008-0988-PWS-E	PCW		
Respondent City of Lawn		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36069		<i>PCW Revision April 29, 2008</i>		
Reg. Ent. Reference No. RN101406916				
Media [Statute] Public Water Supply				
Enf. Coordinator Christopher Keffer				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and 290.274(c)			
Violation Description	Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2000 through 2006.			
	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 type="text"/>	<input type="text"/>	
		Percent	<input type="text" value="0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.			
	Adjustment	<input type="text" value="\$900"/>		
			<input type="text" value="\$100"/>	
Violation Events				
	Number of Violation Events	<input type="text" value="7"/>	Number of violation days	
		<input type="text" value="2191"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input checked="" type="text" value="x"/>		
single event	<input type="text"/>	<input type="text" value="\$700"/>		
	Seven annual events are recommended for the years in which no CCR or certification of delivery was submitted to the TCEQ.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$1,884"/>	Violation Final Penalty Total	<input type="text" value="\$1,645"/>	
	This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,645"/>	

Economic Benefit Worksheet

Respondent City of Lawn
Case ID No. 36069
Reg. Ent. Reference No. RN101406916
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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,400	1-Jul-2001	1-Jul-2007	6.92	\$484	\$1,400	\$1,884
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which no report was distributed.

Approx. Cost of Compliance \$1,400

TOTAL \$1,884

Compliance History

Customer/Respondent/Owner-Operator:	CN600738868	City of Lawn	Classification:	Rating:
Regulated Entity:	RN101406916	CITY OF LAWN	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		2210005
	WATER LICENSING	LICENSE		2210005
Location:	150 MAIN ST, LAWN, TX, 79530			
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	May 28, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 28, 2003 to May 28, 2008			

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

Name: Christopher Keffer Phone: (512) 239-5610

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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: 11/11/2004 | ADMINORDER 2003-0324-PWS-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
5A THC Chapter 341, SubChapter A 341.0315(c) | |
| Rqmt Prov: Docket No. 2003-0324-PWS-E ORDER | |
| Description: Failure to provide a treatment plant capacity of 0.6 gpm per connection. | |
| Classification: Major | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 290, SubChapter D 290.42(i) | |
| Rqmt Prov: Docket No. 2003-0324-PWS-E ORDER | |
| Description: Failure to obtain a permit from the Commission prior to any discharge of wastewater. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 290, SubChapter D 290.44(d) | |
| Rqmt Prov: Docket No. 2003-0324-PWS-E ORDER | |
| Description: Failure to maintain a minimum pressure of 35 psi throughout the distribution system at all times. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1) | |
| Description: Failure to conduct annual water storage tank inspections. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(2) | |
| Description: Failure to conduct annual internal storage tank inspections on pressure filters. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(1)(B) | |
| Description: Failure to properly complete monthly operational reports in accordance with chlorine tracer study process parameters. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii) | |
| Rqmt Prov: Docket No. 2003-0324-PWS-E ORDER | |
| Description: Failure to provide spill containment facilities for all liquid chemical storage tanks. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1) | |

Description: Failure to properly screen vents on water storage facilities.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
Description: Failure to provide 30 inch access opening on water storage facilities.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Rqmt Prov: Docket No. 2003-0324-PWS-E ORDER
Description: Failure to maintain the Chatham ground storage tank in accordance with AWWA standards.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(5)
Description: Failure to provide proper inlet and outlet connections on water storage facilities.
Effective Date: 05/12/2006 ADMINORDER 2005-1136-PWS-E
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: VIOLATED THE MCL FOR HAA5 IN THE FOURTH QUARTER OF 2004
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: VIOLATED THE MCL FOR HAA5 IN THE FIRST QUARTER OF 2005
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: VIOLATED THE MCL FOR TTHM IN THE THIRD QUARTER OF 2004
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: VIOLATED THE MCL FOR TTHM IN THE FOURTH QUARTER OF 2004
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: VIOLATED THE MCL FOR TTHM IN THE FIRST QUARTER OF 2005
Effective Date: 05/28/2006 ADMINORDER 2004-2098-PWS-E
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)
Description: FAILURE TO PROVIDE A B-SURFACE WATER OPERATOR.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Rqmt Prov: Docket 2004-2098-PWS-E ORDER
Description: Failure to calibrate flow measuring devices and rate-of-flow controllers at least once every twelve months.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: FAILURE TO REMOVE AND CLEAN OUT SLUDGE PONDS.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C)
Description: FAILURE TO CONDUCT ANNUAL INSPECTIONS OF ALL WATER STORAGE TANKS.
Effective Date: 11/03/2006 ADMINORDER 2006-0164-PWS-E
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)
Description: Failure to provide 35 psi throughout the distribution.
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
Rqmt Prov: Docket 2006-0164-PWS-E ORDER
Description: Failure to maintain the residual disinfectant concentration throughout the distribution system at a minimum of 0.5 mg/L total chlorine.
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failure to install backflow prevention assemblies or air gaps at all establishments where a potential contamination hazard exists.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
Description: Failure to maintain a water storage tank thoroughly tight against leakage. Specifically, a

0.096 MG standpipe was leaking.

Classification: Minor

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

Description: Failure to maintain good maintenance and housekeeping practices to ensure the good working condition and operating appearances of the system's facilities and equipment. Specifically, the City failed to clean out the sludge ponds and mow around the 0.096 MG standpipe.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)

Description: Failure to employ at least one operator who holds a class "B" or higher surface water license. Specifically, the City failed to employ a certified licensed class "B" surface water operator and a class "C" operator during operating hours.

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	05/10/2004	(270719)
2	10/19/2004	(453192)
3	12/13/2004	(344127)
4	01/05/2005	(453198)
5	01/25/2005	(453084)
6	04/21/2005	(453209)
7	04/27/2005	(453183)
8	06/23/2005	(396452)
9	01/13/2006	(451379)
10	01/13/2006	(451368)
11	06/29/2006	(484658)
12	09/26/2006	(512040)
13	04/20/2007	(557080)
14	06/13/2007	(564213)
15	06/14/2007	(564291)
16	06/14/2007	(564321)
17	06/14/2007	(564282)
18	06/14/2007	(564275)
19	06/14/2007	(564299)
20	06/14/2007	(564327)
21	06/14/2007	(564336)
22	06/14/2007	(564314)
23	06/14/2007	(564345)
24	06/14/2007	(564277)
25	06/14/2007	(564306)
26	06/15/2007	(564395)
27	06/20/2007	(564802)
28	02/27/2008	(636263)
29	05/09/2008	(655025)

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

Date: 05/03/2004 (270719)

Self Report? NO

Classification: Minor

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

Description: FAILURE TO PROVIDE STANDBY ALUM FEEDER PUMP.

Date: 10/19/2004 (453192)

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 third quarter of 2004.

Date: 01/05/2005 (453198)

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: 01/25/2005 (453084)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: Violated the maximum contaminant level for haloacetic acids in the fourth quarter of 2004.
 Date: 04/21/2005 (453209)
 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: 04/27/2005 (453183)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: Violated the maximum contaminant level for haloacetic acids in the first quarter of 2005.
 Date: 09/26/2005 (455030)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)
 Description: FAILURE TO PROVIDE WATER PRESSURE TO 35 PSI MINIMUM.
 Date: 10/26/2005 (564277)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(2)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to monitor and record the turbidity level of the combined filter effluent in July 2005 for 40 hour period.
 Date: 10/26/2005 (564213)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(2)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to monitor and record the turbidity level of the combined filter effluent in May 2005 for 31 hour period.
 Date: 10/26/2005 (564275)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(2)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to monitor and record the turbidity level of the combined filter effluent in June 2005 for 43 hour period.
 Date: 12/09/2005 (564282)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(4)(A)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to monitor and record the turbidity level of the combined filter effluent in October 2005 for 17 days period.
 Date: 03/27/2006 (564291)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceeded the turbidity level of combined filter effluent of the public water system during January 2006 - 5.6% above 0.3 NTU.
 Date: 05/11/2006 (564299)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceeded the turbidity level of combined filter effluent of the public water system during February 2006 - 5.8% above 0.3 NTU.
 Date: 06/29/2006 (484658)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)
 Description: FAILURE TO ELIMINATE CROSS CONNECTION ON FILTER NO. 4
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(5)(F)
 Description: Failure to provide alarms to summon operators during periods when the surface water treatment plant is not staffed.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)
 Description: FAILURE TO PROVIDE LOCKING DEVICE ON RAW WATER INTAKE BUILDING

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)
 Description: Failed to provide legible signs at the raw water intake location which states that the area is restricted and all recreational activities and trespassing are prohibited.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)(G)
 Description: FAILURE TO PROVIDE MINIMUM DISINFECTION LEVELS IN DISTRIBUTION SYSTEM

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)
 Description: FAILURE TO CALIBRATE ONLINE NTU METERS EVERY 90 DAYS

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)
 Description: Failed to conduct a weekly calibration check of the on-line turbidimeter.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)
 Description: Failed to conduct a calibration check of the benchtop turbidimeter using secondary standards each time a series of samples is tested.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)
 Description: FAILURE TO CONDUCT 90 CALIBRATIONS ON BENCH TOP NTU METER (2100P)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)
 Description: FAILURE TO CONDUCT 90 DAY CALIBRATION ON ONLINE CHLORINE ANALYZER

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
 Description: Failure to provide the system's storage tanks with a gooseneck vents or roof ventilators.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
 Description: FAILURE TO COMPLETE SWMORS WITH CORRECT DISINFECTION DATA.
 Date: 09/01/2006 (564306)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceeded the turbidity level of combined filter effluent of the public water system during July 2006 - 10.3% above 0.3 NTU.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for one day in July 2006.
 Date: 12/22/2006 (564314)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceeded the turbidity level of combined filter effluent of the public water system during November 2006 - 6.5% above 0.3 NTU.
 Date: 01/30/2007 (564321)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceeded the turbidity level of combined filter effluent of the public water system during December 2006 - 33.3% above 0.3 NTU.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(i)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Exceeded the turbidity level of combined filter effluent of the public water system during December 2006 - 6 days above 1.0 NTU.
 Date: 04/06/2007 (564336)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for 2 days during February 2007.

Date: 05/07/2007 (564345)

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for seven days during March 2007.

Date: 06/14/2007 (564327)

Self Report? NO **Classification:** Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(1)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours for nine days in January 2007.

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LAWN
RN101406916

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-0988-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Lawn ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 150 Main Street in Lawn, Taylor County, Texas (the "Facility") that has approximately 300 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about April 5, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Six Hundred Forty-Five Dollars (\$1,645) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Hundred Sixteen Dollars (\$116) of the administrative penalty and Three Hundred Twenty-Nine Dollars (\$329) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of One Thousand Two Hundred Dollars (\$1,200) of the administrative penalty shall be payable in 12 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a) and 290.274(c), as documented during a record review conducted on February 18, 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 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Lawn, Docket No. 2008-0988-PWS-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying consumers, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274.
 - b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 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 Nos. 2.a. and 2.b. 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

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Brubaker
For the Executive Director

12/8/08
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.

Veronica Burlison
Signature

9/25/08
Date

Veronica Burlison
Name (Printed or typed)
Authorized Representative of
City of Lawn

Mayer
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.

