

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1280-PWS-E **TCEQ ID:** RN101391399 **CASE NO.:** 36331

RESPONDENT NAME: City of Mount Vernon

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 Mount Vernon, 109 North Kaufman, Mount Vernon, Franklin 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 no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <ul style="list-style-type: none"> 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 J.D. Baumgardner, Mayor, City of Mount Vernon, P.O. Box 597, Mount Vernon, Texas 75457 Mr. Lee Elliott, City Administrator, City of Mount Vernon, P.O. Box 597, Mount Vernon, Texas 75457 Respondent's Attorney: Not represented by counsel on this enforcement matter 		

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: April 24, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 19, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.5 milligrams per liter chloramine [30 TEX. ADMIN. CODE § 290.110(b)(4)].</p>	<p>Total Assessed: \$300</p> <p>Total Deferred: \$60 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$240</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on August 13, 2008, the Respondent submitted the distribution samples for the month of July 2008 which shows the chloramine residuals were above 0.5 milligrams per liter for the entire month of July 2008.</p>

Additional ID No(s): PWS 0800001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	4-Aug-2008	Screening	6-Aug-2008	EPA Due	
	PCW	6-Aug-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Mount Vernon
Reg. Ent. Ref. No.	RN101391399
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36331	No. of Violations	1
Docket No.	2008-1280-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Christopher Keffer
		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 **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Subtotal 6**

Total EB Amounts	\$106	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$100	

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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 6-Aug-2008

Docket No. 2008-1280-PWS-E

PCW

Respondent City of Mount Vernon

Policy Revision 2 (September 2002)

Case ID No. 36331

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101391399

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	5	10%
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	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty is enhanced due to one agreed final enforcement order with a denial of liability and five prior NOV's containing violations that are dissimilar to those cited in this enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 6-Aug-2008	Docket No. 2008-1280-PWS-E	PCW																
Respondent City of Mount Vernon		<small>Policy Revision 2 (September 2002)</small>																
Case ID No. 36331		<small>PCW Revision June 12, 2008</small>																
Reg. Ent. Reference No. RN101391399																		
Media [Statute] Public Water Supply																		
Enf. Coordinator Christopher Keffer																		
Violation Number <input type="text" value="1"/>																		
Rule Cite(s)	30 Tex. Admin. Code § 290.110(b)(4)																	
Violation Description	Failed to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.5 milligrams per liter ("mg/L") chloramine. Specifically, three field tests were conducted on April 24, 2008 that revealed a chloramine residual reading of 0.31 mg/L at the Main Street Texaco Food Mart, 0.14 mg/L at the Wastewater Treatment Plant and 0.11 mg/L at 109 North Kaufman.																	
	Base Penalty	<input type="text" value="\$1,000"/>																
>> Environmental, Property and Human Health Matrix																		
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;">x</td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>		Harm			Release	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="25%"/>
	Harm																	
Release	Major	Moderate	Minor															
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Potential	<input type="text"/>	x	<input type="text"/>															
>> Programmatic Matrix																		
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>		Major	Moderate	Minor	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>								
	Major	Moderate	Minor															
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Matrix Notes	If the water supply does not maintain proper levels of disinfection, customers of the water supply could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.																	
	Adjustment	<input type="text" value="\$750"/>																
		<input type="text" value="\$250"/>																
Violation Events																		
	Number of Violation Events <input type="text" value="1"/>	Number of violation days <input type="text" value="1"/>																
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	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 <input type="text" value="\$250"/>				
daily	<input type="text"/>																	
monthly	<input type="text"/>																	
quarterly	<input type="text"/>																	
semiannual	<input type="text"/>																	
annual	<input type="text"/>																	
single event	x																	
	One single event is recommended.																	
Good Faith Efforts to Comply																		
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">10.0% Reduction</td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		10.0% Reduction		Before NOV NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	Ordinary	x	N/A	(mark with x)	<input type="text" value="\$25"/>						
	10.0% Reduction																	
	Before NOV NOV to EDPRP/Settlement Offer																	
Extraordinary	<input type="text"/>																	
Ordinary	x																	
N/A	(mark with x)																	
Notes	The City achieved compliance on August 13, 2008.																	
	Violation Subtotal	<input type="text" value="\$225"/>																
Economic Benefit (EB) for this violation																		
	Estimated EB Amount <input type="text" value="\$106"/>	Statutory Limit Test																
		Violation Final Penalty Total <input type="text" value="\$300"/>																
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$300"/>																	

Economic Benefit Worksheet

Respondent City of Mount Vernon
Case ID No. 36331
Reg. Ent. Reference No. RN101391399
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				0.00	\$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]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	24-Apr-2008	13-Aug-2008	1.22	\$6	\$100	\$106

Notes for AVOIDED costs

Estimated cost to increase chloramine dosage and ensure chloramine equipment is being operated to maintain adequate chloramine residual. Date required is the date of the chloramine residual test. Final date is date compliance documentation was received by the TCEQ.

Approx. Cost of Compliance \$100

TOTAL \$106

Compliance History

Customer/Respondent/Owner-Operator:	CN600251748 City of Mount Vernon	Classification: AVERAGE	Rating: 0.31
Regulated Entity:	RN101391399 CITY OF MOUNT VERNON	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0800001
	WATER LICENSING	LICENSE	0800001
Location:	109 N KAUFMAN, MT VERNON, TX, 75457		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	August 05, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 05, 2003 to August 05, 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: 11/24/2005 | ADMINORDER 2005-1121-PWS-E |
| 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 | |

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 | 01/07/2004 | (257496) |
| 2 | 06/20/2005 | (395749) |
| 3 | 08/04/2005 | (401973) |
| 4 | 03/21/2006 | (452555) |
| 5 | 02/19/2007 | (540136) |
| 6 | 03/01/2007 | (516261) |
| 7 | 04/19/2007 | (557231) |
| 8 | 03/24/2008 | (617809) |
| 9 | 05/12/2008 | (657131) |
| 10 | 05/19/2008 | (654150) |

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

Date: 01/09/2004 (257496)

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(3)(C)		
Description:	Failure by the regulated entity treating surface water and serving more than 1,000 connections to employ at least two operators, one of which holds a Class "B" or higher Surface water license, and one of which holds a Class "C" or higher Surface water license.		
Date:	08/08/2005	(401973)	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(3)(C)		
Description:	Failure by the regulated entity treating surface water and serving more than 1,000 connections to employ at least two operators, one of which holds a Class "B" or higher Surface water license, and one of which holds a Class "C" or higher Surface water license.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to locate all flush valves on the map of the distribution.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain the raw water pump station in an intruder resistant state.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(1)		
Description:	Failure to maintain openings on the vent screened at all times		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to initiate needed maintenance on clearwell #1 and #2.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:	Failure to have a flow measuring device for the treated water.		
Date:	03/24/2006	(452555)	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(3)(C)		
Description:	Failure by the regulated entity treating surface water and serving more than 1,000 connections to employ at least two operators, one of which holds a Class "B" or higher Surface water license, and one of which holds a Class "C" or higher Surface water license.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to locate all flush valves on the map of the distribution.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain the raw water pump station in an intruder resistant state.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(1)		
Description:	Failure to maintain openings on the vent screened at all times		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to initiate needed maintenance on clearwell #1 and #2.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:	Failure to have a flow measuring device for the treated water.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)		
Description:	Failure to provide proper containment for all chemicals.		
Date:	02/22/2007	(540136)	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to initiate needed maintenance on clearwell #1 and #2.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)		
Description:	Failure to provide proper containment for all chemicals.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(6)		
Description:	Failure to maintain raw water pump #3 in working condition.		
Self Report?	NO	Classification:	Minor

Description:	Failure to provide a reduced pressure principle backflow assembly in the surface wash supply line.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(13)		
Description:	Failure to properly label chemical injection lines.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(14)		
Description:	Failure to provide a raw water sampling tap.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(15)(E)		
Description:	Failure to provide equipment for monitoring sludge depth.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)		
Description:	Failure to provide level indicators for the bulk storage tanks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(6)(B)		
Description:	Failure to employ the appropriate number of certified operators.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(j)		
Description:	Failure to certify the chemicals used for disinfection - ALUM AND CAUSTIC.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)		
Description:	Failure to provide an overflow pipe cover on one EST and a gap greater than 1/16-inch on the other EST.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain the intruder-resistant fences in order to protect the elevated storage tanks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(l)		
Description:	Failure to flush dead-end mains monthly, or more often, if required, to maintain water quality.		

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

Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:	Failure to check benchtop turbidimeters with secondary standards each time a series of samples is tested.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)		
Description:	Failure to verify accuracy of manual disinfectant analyzer with chlorines solutions of known concentrations, at least once every 30 days.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)		
Description:	Failure to provide adequate air-gap for the filter to waste connection.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:	Failure to provide a finish water meter.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(i)		
Description:	Failure to outfit the filters with a rate of flow controller and indicator.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(vi)		
Description:	Failure to provide a reduced pressure principle backflow assembly in the surface wash supply line.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(13)		
Description:	Failure to properly label chemical injection lines.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(14)		
Description:	Failure to provide a raw water sampling tap.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(15)(E)		
Description:	Failure to provide equipment for monitoring sludge depth.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)		
Description:	Failure to provide level indicators for the bulk storage tanks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(6)(B)		
Description:	Failure to employ the appropriate number of certified operators.		
Date:	03/24/2008 (617809)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to initiate needed maintenance on clearwell #1 and #2.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)		
Description:	Failure to provide proper containment for all chemicals.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(6)		
Description:	Failure to maintain raw water pump #3 in working condition.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:	Failure to check benchtop turbidimeters with secondary standards each time a series of samples is tested.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)		
Description:	Failure to verify accuracy of manual disinfectant analyzer with chlorines solutions of known concentrations, at least once every 30 days.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)		
Description:	Failure to provide adequate air-gap for the filter to waste connection.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:	Failure to provide a finish water meter.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(i)		
Description:	Failure to outfit the filters with a rate of flow controller and indicator.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(vi)		

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MOUNT VERNON
RN101391399

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1280-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 Mount Vernon ("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 109 North Kaufman in Mount Vernon, Franklin County, Texas (the "Facility") that has approximately 1,210 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 May 24, 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 Three Hundred Dollars (\$300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Hundred Forty Dollars (\$240) of the administrative penalty and Sixty Dollars (\$60) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that on August 13, 2008, the City submitted the distribution samples for the month of July 2008 which shows the chloramine residuals were above 0.5 milligrams per liter for the entire month of July 2008.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.5 milligrams per liter chloramine, in violation of 30 TEX. ADMIN. CODE § 290.110(b)(4), as documented during an investigation conducted on April 24, 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 Mount Vernon, Docket No. 2008-1280-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 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.
3. 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.
4. 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.
5. 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 S. Quinn
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.

Lee Elliott
Signature

09/30/2008
Date

LEE ELLIOTT
Name (Printed or typed)
Authorized Representative of
City of Mount Vernon

CITY ADMINISTRATOR
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.

