

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-1037-PWS-E **TCEQ ID:** RN101216257 **CASE NO.:** 16927**RESPONDENT NAME:** Fort Gates Water Supply Corporation

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: Fort Gates WSC, 1645 Farm-to-Market Road 107, Coryell County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 17, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-13, (361) 825-3425; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Amy Veazey, Registered Agent, Fort Gates Water Supply Corporation, 103 Gateway Circle, Gatesville, Texas 76528 Mr. Justin Veazey, Operator, Fort Gates Water Supply Corporation, 103 Gateway Circle, Gatesville, Texas 76528 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 26, 2008</p> <p>Date of NOV/NOE Relating to this Case: June 10, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide an up-to-date distribution map of the system [30 TEX. ADMIN. CODE § 290.46(n)(2) and TCEQ Agreed Order Docket No. 2004-0925-PWS-E, Ordering Provision 2.a.ii.].</p> <p>2) Failure to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)(4)].</p> <p>3) Failure to provide an intruder-resistant fence [30 TEX. ADMIN. CODE § 290.41(c)(3)(O)].</p> <p>4) Failure to provide water system records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2), 290.46(f)(3)(A)(iv), 290.46(f)(3)(B)(iii), 290.46(f)(3)(B)(vi), 290.46(f)(3)(D)(ii), and 290.46(f)(3)(E)(iv).].</p>	<p>Total Assessed: \$480</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 to General Revenue: \$480</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>Findings Orders Justification: This is a Findings Order because the case involves a violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.</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. Provide an up-to-date distribution map showing all valves and cut-offs;</p> <p>ii. Repair or replace the leaking pipe in the service pump room at the Main Plant; and</p> <p>iii. Begin compiling and maintain properly completed monthly water works operation reports and maintenance records, including but not limited to: daily production records, annual tank inspection forms, completed customer service inspection reports, verification of American National Sanitation Institute/National Sanitation Foundation Standard 60 certification for calcium hypochlorite, disinfection residual monitoring logs, monthly flushing records, backflow prevention assembly test reports, and plant operation manual.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.;</p> <p>c. Within 60 days after the effective date of this Agreed Order, repair the fence at the Main Plant so that it is rendered intruder-resistant; and</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.</p>

Additional ID No(s): PWS 0500017



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	17-Jun-2008	Screening	25-Jun-2008	EPA Due	1-Jan-2009
	PCW	25-Jun-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Fort Gates Water Supply Corporation		
Reg. Ent. Ref. No.	RN101216257		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	16927	No. of Violations	4
Docket No.	2008-1037-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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	\$400
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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	20.0% Enhancement	Subtotals 2, 3, & 7	\$80
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Notes: The penalty enhancement is due to one prior agreed final enforcement order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$80	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,200	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$480
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$480
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$480
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DEFERRAL	0.0% 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	\$480
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Screening Date 25-Jun-2008	Docket No. 2008-1037-PWS-E	PCW
Respondent Fort Gates Water Supply Corporation	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 16927	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN101216257		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		

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	0	0%
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) 20%

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

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

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

Compliance History Notes	The penalty enhancement is due to one prior agreed final enforcement order containing a denial of liability.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 25-Jun-2008 **Docket No.** 2008-1037-PWS-E **PCW**
Respondent Fort Gates Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 16927 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101216257
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(2), and TCEQ Agreed Order Docket No. 2004-0925-PWS-E, Ordering Provision 2.a.ii
Violation Description Failed to provide an up-to-date distribution map of the system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 **Number of violation days** 1119

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

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

Estimated EB Amount \$20 **Violation Final Penalty Total** \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

Economic Benefit Worksheet

Respondent: Fort Gates Water Supply Corporation
Case ID No.: 16927
Reg. Ent. Reference No.: RN101216257
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)	\$100	3-Mar-2005	1-Feb-2009	3.92	\$20	n/a	\$20

Notes for DELAYED costs

The delayed cost includes the amount of preparing and maintaining an up-to-date distribution map of the water system, calculated from the effective date of TCEQ Agreed Order Docket No. 2004-0925-PWS-E to the estimated date of compliance.

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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$20

Screening Date 25-Jun-2008 **Docket No.** 2008-1037-PWS-E **PCW**
Respondent Fort Gates Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 16927 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101216257
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(4)
Violation Description Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition. Specifically, at the time of the investigation, it was documented that there was a leaking pipe in the service pump room at the main plant.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to maintain the water system in a watertight condition could allow a significant amount of contaminants to enter the water system which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 91 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, March 26, 2008, to the date of screening, June 25, 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

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

Estimated EB Amount \$6 **Violation Final Penalty Total** \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

Economic Benefit Worksheet

Respondent: Fort Gates Water Supply Corporation
Case ID No.: 16927
Reg. Ent. Reference No.: RN101216257
Media: Public Water Supply
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	26-Mar-2008	1-Feb-2009	0.85	\$0	\$6	\$6
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 The delayed cost includes the amount to repair the leak, 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				0.00	\$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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$6
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Screening Date 25-Jun-2008	Docket No. 2008-1037-PWS-E	PCW	
Respondent Fort Gates Water Supply Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 16927	<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN101216257			
Media [Statute] Public Water Supply			
Enf. Coordinator Epifanio Villarreal			
Violation Number <input type="text" value="3"/>			
Rule Cite(s)	30 Tex. Admin. Code § 290.41(c)(3)(O)		
Violation Description	Failed to provide an intruder-resistant fence. Specifically, at the time of the investigation, it was documented that the fence located at the Main Plant was measured at 67 inches in height, had two strands of barbed wire in one section, and had a large gap in a corner section.		
Base Penalty		<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
	Actual <input type="text"/>	<input type="text"/>	<input type="text"/>
Potential <input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="10%"/>
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Matrix Notes	Failing to provide an intruder-resistant fence 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 to a significant amount of pollutants 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="1"/>	Number of violation days	
	<input type="text" value="91"/>		
<i>mark only one with an x</i>	daily <input type="text"/>	Violation Base Penalty	
	monthly <input type="text"/>		
	quarterly <input checked="" type="text" value="x"/>		<input type="text" value="\$100"/>
	semiannual <input type="text"/>		
	annual <input type="text"/>		
	single event <input type="text"/>		
One quarterly event is recommended from the date of the investigation, March 26, 2008, to the date of screening, June 25, 2008.			
Good Faith Efforts to Comply			
<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>	
<small>Before NOV NOV to EDPRP/Settlement Offer</small>			
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 for this violation.		
Violation Subtotal		<input type="text" value="\$100"/>	
Economic Benefit (EB) for this violation			
Statutory Limit Test			
Estimated EB Amount	<input type="text" value="\$33"/>	Violation Final Penalty Total	
		<input type="text" value="\$120"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$120"/>	

Economic Benefit Worksheet

Respondent: Fort Gates Water Supply Corporation
Case ID No.: 16927
Reg. Ent. Reference No.: RN101216257
Media: Public Water Supply
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	26-Mar-2008	1-Mar-2009	0.93	\$2	\$31	\$33
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

The delayed cost includes the amount to repair the Main Plant's fence to render it intruder-resistant, 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				0.00	\$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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$33

Screening Date 25-Jun-2008 **Docket No.** 2008-1037-PWS-E **PCW**
Respondent Fort Gates Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 16927 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101216257
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2), 290.46(f)(3)(A)(iv), 290.46(f)(3)(B)(iii), 290.46(f)(3)(B)(vi), 290.46(f)(3)(D)(ii), and 290.46(f)(3)(E)(iv)
Violation Description Failed to provide water system records to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, the following records were not available for review: daily water production records, annual tank inspection forms, completed customer service inspection reports, verification of American National Sanitation Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 certification for calcium hypochlorite, disinfectant residual monitoring logs, monthly flushing reports, backflow prevention assembly test reports, and a plant operations manual.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes Greater than 70% of the rule requirements were not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply Reduction Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

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

Estimated EB Amount \$21 **Violation Final Penalty Total** \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

Economic Benefit Worksheet

Respondent Fort Gates Water Supply Corporation
Case ID No. 16927
Reg. Ent. Reference No. RN101216257
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$500	26-Mar-2008	1-Feb-2009	0.85	\$21	n/a	\$21
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

The delayed cost includes the amount to prepare and keep on file daily water production records, annual tank inspection forms, completed customer service inspection reports, verification of ANSI/NSF Standard 60 certification for calcium hypochlorite, disinfectant residual monitoring logs, monthly flushing reports, backflow prevention assembly test reports and a plant operations manual, 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				0.00	\$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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator: CN600658629 Fort Gates Water Supply Corporation Classification: Rating:
Regulated Entity: RN101216257 FORT GATES WSC Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0500017
WATER LICENSING LICENSE 0500017
Location: 1645 FARM-TO-MARKET ROAD 107, CORYELL COUNTY, TEXAS
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: June 24, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 24, 2003 to June 24, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Epi Villarreal Phone: (210) 403-4033

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: 03/03/2005

ADMINORDER 2004-0925-PWS-E

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.

Classification: Minor

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

Description: Failure to test public water system wells.

Classification: Minor

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

Description: Failure to plug an abandoned well.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failure to provide a flow measuring device for each well.

Classification: Moderate

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

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

Classification: Moderate

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

Description: Failure to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide an intruder-resistant fence in order to protect the well, pressure tanks, and

ground storage tanks.

Classification: Minor

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

Description: Failure to provide up-to-date distribution map.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide a sanitary easement at the time of this investigation.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)

Description: Failure to provide a well casing eighteen inches above the ground surface.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)

Description: Failure to properly install the well blow-off line.

Classification: Minor

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

Description: Failure to post a legible sign at the water plant.

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 06/25/2004 (273300)

2 05/24/2006 (467351)

3 06/10/2008 (638767)

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

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
FORT GATES WATER SUPPLY
CORPORATION
RN101216257

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-1037-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 Fort Gates Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent 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 Respondent 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 Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 1645 Farm-to-Market Road 107, Coryell County, Texas (the "Facility") that has approximately 947 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on March 26, 2008, TCEQ staff documented that the Respondent did not provide an up-to-date distribution map of the system.
3. During an investigation conducted on March 26, 2008, TCEQ staff documented that the Respondent did not maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition. Specifically, at the time of the investigation, it was documented that there was a leaking pipe in the service pump room at the Main Plant.
4. During an investigation conducted on March 26, 2008, TCEQ staff documented that the Respondent did not provide an intruder-resistant fence. Specifically, at the time of the investigation, it was documented that the fence located at the Main Plant was measured at 67 inches in height, had two strands of barbed wire in one section, and had a large gap in a corner section.
5. During an investigation conducted on March 26, 2008, TCEQ staff documented that the Respondent did not provide water system records to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, the following records were not available for review: daily water production records, annual tank inspection forms, completed customer service inspection reports, verification of American National Sanitation Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 certification for calcium hypochlorite, disinfectant residual monitoring logs, monthly flushing reports, backflow prevention assembly test reports and a plant operations manual.
6. The Respondent received notice of the violations on June 15, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent 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 Respondent failed to provide an up-to-date distribution map of the system, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2), and TCEQ Agreed Order Docket No. 2004-0925-PWS-E, Ordering Provision 2.a.ii.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide an intruder-resistant fence, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide water system records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), 290.46(f)(3)(A)(iv), 290.46(f)(3)(B)(iii), 290.46(f)(3)(B)(vi), 290.46(f)(3)(D)(ii), 290.46(f)(3)(E)(iv).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent 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.
7. An administrative penalty in the amount of Four Hundred Eighty Dollars (\$480) 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 Respondent has paid the Four Hundred Eighty Dollar (\$480) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Four Hundred Eighty Dollars (\$480) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent'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: Fort Gates Water Supply Corporation, Docket No. 2008-1037-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 Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Provide an up-to-date distribution map showing all valves and cut-offs, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Repair or replace the leaking pipe in the service pump room at the Main Plant, in accordance with 30 TEX. ADMIN. CODE § 290.46; and

- iii. Begin compiling and maintain properly completed monthly water works operation reports and maintenance records, including but not limited to: daily production records, annual tank inspection forms, completed customer service inspection reports, verification of ANSI/NSF Standard 60 certification for calcium hypochlorite, disinfection residual monitoring logs, monthly flushing records, backflow prevention assembly test reports, and plant operation manual in accordance with 30 TEX. ADMIN. CODE § 290.46.
- b. Within 45 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.d. and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a.
- c. Within 60 days after the effective date of this Agreed Order, repair the fence at the Main Plant so that it is rendered intruder-resistant, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
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 Respondent. The Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 Respondent if the Executive Director determines that the Respondent 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 Respondent 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

Date 1/23/2009

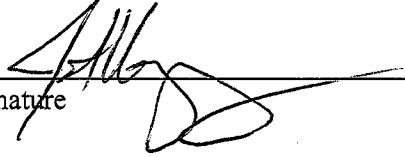
I, the undersigned, have read and understand the attached Agreed Order in the matter of Fort Gates Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Fort Gates Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge 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, Fort Gates Water Supply Corporation 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

Date 8-21-08

Justin Veazey

Name (Printed or typed)
Authorized Representative of
Fort Gates Water Supply Corporation

operator
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.

