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EXECUTIVE SUMMARY - ENFORCEMENT MATTER P DOCKET NO.: 2008-1644-PWS-E TCEQ ID: RN101383982 CASE NO.: 34524 RESPONDENT NAME: City of Hale Center

ORDER TYPE: _1660 AGREED ORDER X FINDINGS AGREED ORDER FINDINGS ORDER FOLLOWING SOAH HEARING SHUTDOWN ORDER FINDINGS DEFAULT ORDER IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER AMENDED ORDER EMERGENCY ORDER CASE TYPE: INDUSTRIAL AND HAZARDOUS _AIR _MULTI-MEDIA (check all that apply) WASTE X PUBLIC WATER SUPPLY PETROLEUM STORAGE TANKS OCCUPATIONAL CERTIFICATION _SEWAGE SLUDGE UNDERGROUND INJECTION _WATER QUALITY CONTROL MUNICIPAL SOLID WASTE **_RADIOACTIVE WASTE** DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Hale Center, 702 Main Street, Hale Center, Hale County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ____Yes __X_No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The Texas Register comment period expired on February 2, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387

Respondent: The Honorable Eugene Carter, Mayor, City of Hale Center, P.O. Box 532, Hale Center, Texas 79041 Respondent's Attorney: Mr. Micah Milouf, of the law firm of Owen, Voss, Owen, & Melton, P.C., 700 West Seventh Street, Plainview, Texas 79073-0328

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RESPONDENT NAME: City of Hale Center DOCKET NO.: 2008-1644-PWS-E

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VIOLATION SUMMARY CHAR	Τ:	
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Total Assessed: \$336 contract of all the second sec	Corrective Actions Taken:
Complaint Routine	Total Deferred: \$0	The Executive Director recognizes that as
Enforcement Follow-up	Expedited Settlement	of October 29, 2008, the Respondent has
X Records Review	A set of the set of	implemented the following corrective
	Financial Inability to Pay	measures:
Date(s) of Complaints Relating to this Case: None	SEP Conditional Offset: \$0	a. Provided a pressure indicator located at
Data of Investigation Delating to this	Total Database Community managements	ground level on the Facility's elevated storage tank; and
Date of Investigation Relating to this Case: September 3, 2008	Total Paid to General Revenue: \$336	storage tank, and
	Site Compliance History Classification	b. Began maintaining water system
Date of NOV/NOE Relating to this Case:	High Average Poor	records, including, but not limited to
September 25, 2008 (NOE)	Person Compliance History Classification	customer service inspections, Disinfectant Level Quarterly Operating Reports, and
Background Facts: This was a record	HighX_AveragePoor	the results of backflow prevention device
review.		testing and made these documents
	Major Source: Yes X No	available for Commission review.
WATER	Annelise ble Der ster Deliere Gantershen 2002	
1) Failure to provide a pressure indicator	Applicable Penalty Policy: September 2002	
on the Facility's elevated storage tank [30	Findings Orders Justification: Indifference	and the second sec
TEX. ADMIN. CODE § 290.43(c)(4) and	to legal duty because the Respondent failed to	
TCEQ Agreed Order Docket No. 2007- 1402-PWS-E, Ordering Provision No.	comply with a prior Agreed Order.	
3.b.ii.].		
	Carrier and the second second	
2) Failure to provide Facility records to		
Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE §	FOR A DEPARTMENT OF A DEPARTMENTA OF A DEPARTA OF A DEPARTMENTA OF A DEPARTA OF A DEPART	
290.46(f)(2) and TCEQ Agreed Order		
Docket No. 2007-1402-PWS-E, Ordering		
Provision No. 3.a.i.].	A the second	
	A REAL AND A REAL PROPERTY AND	
		La serie de la final de la seconda de la

Additional ID No(s) .: PWS ID No. 0950002

Bunk. X	Penalty Calculatio	n Worksheet (F	PCW)	· · · ·
Policy Revision 2 (Sept	ember 2002)	-	PCW Revisi	on June 12, 2008
DATES Assigned PCW		EPA Due 30-May-2009		
RESPONDENT/FACILITY	INFORMATION		1. 1 위 : 1 · 1 · 1	
Respondent	City of Hale Center	<u>a de la constante de la constan</u> La constante de la constante de	and a second s	
Reg. Ent. Ref. No.				
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor	
CASE INFORMATION				ELSIFICATION AND
Enf./Case ID No.	34524	No. of Violations	2	
	2008-1644-PWS-E	Order Type		
	Public Water Supply	Government/Non-Profit		
Multi-Media			Andrea Linson-Mgbeodu Enforcement Team 2	iru
Admin. Penalty \$ L	imit Minimum \$50 Maximum	\$1,000		<u>.</u>
	Penalty Calcula	ation Section		
TOTAL BASE PENAL	TY (Sum of violation base penalties	S)	Subtotal 1	\$300
ADJUSTMENTS (+/-)	TO SUBTOTAL 1			
Subtotals 2-7 are obtain	ned by multiplying the Total Base Penalty (Subtotal 1) by	the indicated percentage.		an bhforraitheir i
Compliance Histo	pry 22.0%	Enhancement Subto	otals 2, 3, & 7	\$66
Notes	Enhancement due to one prior Notice of violations as those in the current enforcement final enforcement order containing a	ent action, and one agreed		
Culpability	No 0.0%	Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the			<u> </u>
Good Faith Effort	to Comply Total Adjustments		Subtotal 5	\$30
	$(x_1, \dots, x_n) \in \mathbb{R}^n$	11 C		
Economic Benefit Approx. C	Construction of the second	Enhancement** at the Total EB \$ Amount	Subtotal 6	\$0
SUM OF SUBTOTALS	×1 -7			\$336
			inal Subtotal	
	S JUSTICE MAY REQUIRE	0.0%	Adjustment	s. \$0
Notes				
L	<u>en ser hannen han er en son son son son son son son son son so</u>	Final Per	nalty Amount	\$336
STATUTORY LIMIT A	DJUSTMENT	Final Asse	ssed Penalty	\$336
DEFERRAL Reduces the Final Assessed Pena	alty by the indicted percentage. <i>(Enter number only;</i> e.g.	0.0% Reduction	Adjustment	\$0
Notes	No deferral is recommended for F			
PAYABLE PENALTY				\$336

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		Ing Date 14-Oct-2008 Docket No. 2008-1644-PWS-E pondent City of Hale Center	Policy R	evision 2 (Septe	PCW
	Cas	se ID No. 34524	P	CW Revision Jui	ne 12, 200
Reg.	Ent. Refere	ence No. RN101383982			
	Media	[Statute] Public Water Supply			
	Enf. Coo	ordinator Andrea Linson-Mgbeoduru		an 1997 (N	
•		Compliance History Worksheet	44 19 - 19 - 19 - 19 - 19 - 19 - 19 - 19 -	and the	
Compli	anco History	Site Enhancement (Subtotal 2)	ene ser cont		
			Enter Number Here	Adjust.	William (
		Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%	
		Other written NOVs	1	2%	
		Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%	
	galan Tanan Bala	Any adjudicated final enforcement orders, agreed final enforcement orders without a denia of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%	
		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%	
	Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final cour judgments or consent decrees without a denial of liability, of this state or the federa government		0%	
		Any criminal convictions of this state or the federal government (number of counts)	0	0%	
	Emissions	Chronic excessive emissions events (number of events)	0	0%	
21 · · ·	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%	
	a na ing	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%	
、			ase Enter Yes or No	· · · · · · · · · · · · · · · · · · ·	
		Environmental management systems in place for one year or more	No	0%	
-	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	a No	0%	
4 - E		Participation in a voluntary pollution reduction program	No	0%	1
		Early compliance with, or offer of a product that meets future state or federal governmen environmental requirements	t No	0%	
_		Adjustment F	Percentage (Si	ubtotal 2)	22%
Repeat	Violator (Su	btotal 3)			
	N/A		Percentage (S	ubtotal 3) [0%
Compli	ance History	Person Classification (Subtotal 7)		동안 등 - 428 - X	
Ľ	Average Po	erformer Adjustment F	Percentage (Si	ubtotal 7)	0%
Compli	ance History	/ Summary			
	Compliance History Notes	Enhancement due to one prior Notice of Violation with dissimilar violations as those in enforcement action, and one agreed final enforcement order containing a denial of			
		Total Adjustment Percentage	e (Subtotals :	2, 3, & 7)	22%

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Screening Date	14-Oct-2008	Docket No. 2008	3-1644-PWS-E	PCW
	City of Hale Center	_ 5010111012000		Revision 2 (September 2002)
Case ID No.				PCW Revision June 12, 2008
Reg. Ent. Reference No.				
	Public Water Supply			u an
	Andrea Linson-Mgbeoduru			
Violation Number				۱ ا
Rule Cite(s)		290.43(c)(4) and TCEQ Agreed Or PWS-E, Ordering Provision No. 3.		
Violation Description	storage tank. Specifically Respondent did not have	ure indicator located at ground lev , at the time of the record review, a pressure indicator located at gro k since the tank is equipped with a indicator.	it was documented that the ound level that is required for	
		-	Base Penalty	/\$1,000
>> Environmental, Property an	d Human Health Matr	İΧ		
Release	Harm Major Moderate	Minor		
OR Actual				
Potential	×	Perc	ent 10%	
>>Programmatic Matrix Falsification	Major Moderate	Minor		
		Perc	ent 0%	
	1			_
Failure to equip	the elevated storage tank	with a liquid level indicator can co	ntribute to inadequate water	
Matrix supply because	the operator cannot make t	he necessary production and usage	ge calculations to ensure tha	
Notes customers a		cant amount of contamination that ective of human health.	would not exceed levels	
		Adjust	tment \$900	ק א
· · · · · · · · · · · · · · · · · · ·				
				\$100
Violation Events		· 177 指:限2-14-16-16-	오배운데 반자율을	
· · · ·		- -		•
Number of Vic	plation Events	169 Num	ber of violation days	
	daily	7		
	monthlý			
mark only one	quarterly x		Violation Base Penalty	\$200
with an x	semiannual			
	annual single event			
		۲		
	ents are recommended ica	lculated from the effective date of	TCEO Agreed Order Docke	1
		28, 2008, to the screening date Oc		
				L
Good Faith Efforts to Comply	10.0%	Reduction		\$20
	Before NOV	NOV to EDPRP/Settlement Offer		»L
•	Extraordinary			
	Ordinary	X	· · · ·	
	N/A	(mark with x)		
	Notes The Resp	ondent achieved compliance Octo	ober 29, 2008	-
	<u>L</u>			
			Violation Subtotal	\$180
Economic Benefit (EB) for this	violation	tet9	utory Limit Test	
		ગતા	acory chine rest	
Éstimated	EB Amount	\$7 V	iolation Final Penalty Total	\$224
		This violation Final Assessed F	Penalty (adjusted for limite)	\$224
		This violation i mai Assessed i	shary (adjusted for milits)	

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Case ID No. Reg. Ent. Reference No.	4	nter					
Media Violation No.	Public Water S	upply	•			Percent Interest	Years of Depreciation
						5.0	15
Real Street	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$		919				a dhalan an ann an
Delayed Costs	849 / J. (1997)						8.
Equipment	\$200	28-Apr-2008	29-Oct-2008	0.50	\$0	\$7	\$7
Buildings				0.00	\$0	\$0	\$0
Other (as needed)			1	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	īī/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a · · · ·	\$0
Other (as needed)	The delayed c	osts include the arr	ount to install an	0.00 appropri	\$0 ate liquid level ind	icator on the elevate	\$0 ed storage tank.
Notes for DELAYED costs Avoided Costs Disposal Personnel	The date requ	ired is the effective	date of TCEQ Ag is the d	appropriate of co	\$0 ate liquid level ind ter Docket Numbe mpliance. item (except for \$0 \$0	icator on the elevate r 2007-1402-PWS-E one-time avoided c \$0 \$0	\$0 ed storage tank. E. The final date costs) \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	The date requ	ired is the effective	date of TCEQ Ag is the d	appropriate of co	\$0 ate liquid level ind ler Docket Numbe mpliance. Item (except for \$0 \$0 \$0	icator on the elevate r 2007-1402-PWS-E one-time avoided c \$0 \$0 \$0	\$0 d storage tank. The final date costs) \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	The date requ	ired is the effective	date of TCEQ Ag is the d	appropriate of co	\$0 ate liquid level ind ler Docket Numbe mpliance. item (except for \$0 \$0 \$0 \$0 \$0	icator on the elevate r 2007-1402-PWS-E one-time avoided c \$0 \$0 \$0 \$0	\$0 ed storage tank. E. The final date costs) \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	The date requ	ired is the effective	date of TCEQ Ag is the d	appropriate of co	\$0 ate liquid level ind ler Docket Numbe mpliance. item (except for \$0 \$0 \$0 \$0 \$0 \$0	icator on the elevate r 2007-1402-PWS-E one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ed storage tank. E. The final date costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	The date requ	ired is the effective	date of TCEQ Ag is the d	appropri- reed Ord ate of co ntering 0.00 0.00 0.00 0.00 0.00 0.00	\$0 ate liquid level ind ler Docket Numbe mpliance. Item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	icator on the elevate r 2007-1402-PWS-E one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ed storage tank. E. The final date :osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	The date requ	ired is the effective	date of TCEQ Ag is the d	appropriate of co	\$0 ate liquid level ind ler Docket Numbe mpliance. item (except for \$0 \$0 \$0 \$0 \$0 \$0	icator on the elevate r 2007-1402-PWS-E one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ed storage tank. E. The final date costs) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	The date requ	ired is the effective	date of TCEQ Ag is the d	appropri- reed Ord ate of co ntering 0.00 0.00 0.00 0.00 0.00 0.00	\$0 ate liquid level ind ler Docket Numbe mpliance. Item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	icator on the elevate r 2007-1402-PWS-E one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ed storage tank. E. The final date :osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0

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Screening Date	14-Oct-2008	Docket No. 2008-1644-PWS-1	E	PCW
	City of Hale Center		Policy Revi:	sion 2 (September 2002)
Case ID No.			PCW	Revision June 12, 2008
Reg. Ent. Reference No. Media [Statute]	Public Water Supply			
	Andrea Linson-Mgbeoduru			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 290	.46(f)(2) and TCEQ Agreed Order Docket No. 20	007-1402-PWS-	
		E, Ordering Provision No. 3.a.i		
Violation Description	including customer servi	cords to Commission personnel at the time of th ce inspection reports, Disinfectant Level Quarter), and the records of backflow prevention device	rly Operating	
	•		Base Penalty	\$1,000
>> Environmental, Property an	d Human Health Matri Harm			
Release	Major Moderate	Minor		
OR Actual Potential			00/1	
Fotential		Percent	0%	
>>Programmatic Matrix				
Falsification	Major Moderate	Minor	100/	
	X	Percent 1	10%	
Matrix Notes	The Respondent failed to	o comply with 100% of the rule requirement.		
		Adjustment	\$900	
	-			
			L	\$100
Violation Events				5-1, ¹
Number of Vie	olation Events	Number of violation	n davs	
			, augu	
mark only one with an x	daily monthly quarterly semiannual annual single event <u>x</u>	Violatior	n Base Penalty	\$100
	One sin	gle event is recommended.		
Good Faith Efforts to Comply	10.0%	Reduction	公理 差据度	\$10
	Before NOV Extraordinary	NOV to EDPRP/Settlement Offer		
	Ordinary	Caller and the second		
		(mark with x)		
•	Notes The Resp	ondent achieved compliance October 29, 2008.		
	ļ <u></u>			
		Viol	lation Subtotal	\$90
Economic Benefit (EB) for this	violation	Statutory Limi	t Test	
Estimater	EB Amount	\$3 Violation Fina	I Penaity Total	\$112
		This violation Final Assessed Penalty (adjust	sted for limits)	\$112

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	영상 상태에 🗖	conomic l	Benefit W	orks	sheet		
Respondent	City of Hale Ce	nter	in sin in a state and a second	- 127 S.J 189	er en anternañ al de estat de dinañ de de en dinete, e de estat ante	n de la construir de la constru La construir de la construir de	nangun papa di nya dibuah atalawa wasati
Case ID No.							
Reg. Ent. Reference No.							
	Public Water S	upply					Years of
Violation No.		abb.)			-	Percent Interest	Depreciation
		ya. Ngo na katala	este Marger	an ang sa		5.0	۰۰ دیکھ دیکھیں۔ 11
		B 42 B	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	Item Cost	Date Required	Final Date	TIS	Interest Saveo	Oneume costs	ED Alliount
Item Description	No commas or \$			مند مستقرقة			
	-	and the second		Mezzo vezo			elen ar kelina her
Delayed Costs			NMEN BY AND ST	1 0.00		1 AO 1	<u> </u>
Equipment				0.00	\$0	\$0	<u>\$0</u> \$0
Buildings				0.00	\$0 \$0	\$0 \$0	\$0
Other (as needed)				1 0.00	\$0	\$0 \$0	\$0 \$0
Engineering/construction				0.00	\$0		\$0 \$0
Record Keeping System	\$100	28-Apr-2008	29-Oct-2008	0.50	\$3	n/a	\$3
Training/Sampling		20-701-2000		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)	The delaye	ed costs include the	amount to organ	0.00 0.00 ize and b	\$0 \$0 begin maintaining	n/a n/a a record keeping sy	\$0 \$0 stem for the
	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	<u>0.00</u> ize and t and the l cet Numi complian	\$0 begin maintaining backflow preventio ber 2007-1402-PV ice.	a record keeping sy on device testing. Th VS-E. The final date	\$0 stem for the e date required is the date of
Other (as needed) Notes for DELAYED costs	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	<u>0.00</u> ize and t and the l cet Numi complian	\$0 begin maintaining backflow preventio ber 2007-1402-PV ice.	a record keeping sy on device testing. Th	\$0 stem for the e date required is the date of
Other (as needed)	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	<u>0.00</u> ize and t and the l cet Numi complian	\$0 begin maintaining backflow preventio ber 2007-1402-PV ice. Item (except for \$0	a record keeping syon on device testing. The VS-E. The final date one-time avoided c \$0	\$0 stem for the e date required is the date of osts) \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	0.00 ize and the land	\$0 begin maintaining backflow preventio ber 2007-1402-PV ice. item (except for \$0 \$0	a record keeping syon device testing. The final date one-time avoided c \$0 \$0 \$0	\$0 stem for the e date required is the date of oosts) \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	0.00 ize and t and the I ket Number complian intering 0.00 0.00 0.00	\$0 begin maintaining backflow preventio ber 2007-1402-PV ice. item (except for \$0 \$0 \$0	a record keeping syon device testing. The VS-E. The final date one-time avoided c \$0 \$0 \$0 \$0 \$0	\$0 stem for the e date required is the date of oosts) \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	0.00 ize and t and the I ket Number complian intering 0.00 0.00 0.00 0.00 0.00	\$0 begin maintaining backflow preventio ber 2007-1402-PV ice. item (except for \$0 \$0 \$0 \$0 \$0	a record keeping syon device testing. The VS-E. The final date one-time avoided control to the solution of the	\$0 stem for the e date required is the date of sosts) \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	0.00 ize and the l and the l complian Intering 0.00 0.00 0.00 0.00 0.00	\$0 begin maintaining backflow prevention ber 2007-1402-PV ice. item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0	a record keeping syon device testing. The VS-E. The final date one-time avoided one-time avoided one-time so the s	\$0 stem for the e date required is the date of \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	customer serv is the effecti	ice inspection repo ve date of TCEQ A	rts, the DLQORs greed Order Dock	0.00 ize and t and the l cet Numi complian intering 0.00 0.00 0.00 0.00 0.00 0.00	\$0 begin maintaining backflow preventic ber 2007-1402-PV ice. item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	a record keeping syon device testing. The final date one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 stem for the e date required is the date of \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
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Compliance History Report

Customer/Respo	ondent/Owner-Ope	rator:	CN600636609	City of	Hale Center	С	lassification	: AVERAGE	Rating: 1.86
Regulated Entity	:		RN101383982	CITY	OF HALE CENTER	С	lassification	:	Site Rating:
ID Number(s):		PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING			REGISTRATION			0950002 0950002	
Location:			702 MAIN STREE	T, HALE	CENTER, TX, 79041				
TCEQ Region:			REGION 02 - LUB	воск				•	
Date Compliance	e History Prepared		January 07, 2009						
Agency Decision	Requiring Compli	ance History:	Enforcement						
Compliance Peri	od:		September 28, 200	03 to Se	otember 28, 2008				
TCEQ Staff Men	ber to Contact for	Additional Info	ormation Regarding th	his Com	oliance History				
Name:	Andrea Linson-M	gbeoduru	Pho	ne:	512-239-1482				
			Site Con	nplianc	e History Compon	ents			
1. Has the site b	een in existence ar	nd/or operation	for the full five year	complia	nce period?	Yes			
2. Has there bee	n a (known) chang	e in ownership	o of the site during the	e compli	ance period?	No			
3 If Voc. who is	the current owner?	,				N/A			
	as/were the prior o					N/A			-
								a.	
	change(s) in owne	ership occur?			· · · · · · · · · · · · · · · · · · ·	N/A			
6.								e ter	
Component	ts (Multimedia) t	for the Site :	· · · · · · · · · · · · · · · · · · ·						н
A. Final Enfo	prcement Orders, o	court judgemer	nts, and consent deci	rees of ti	ne state of Texas and	the federal gover	nment.	с. м. ^с .	
N/A			e: 04/28/2008		ADMINORDE	R 2007-1402-P	WS-E		
	x	Classification Citation:	•	SubCh	apter D 290.41(c)(3)(K	0			
			Failure to properly ve			7			
		Classification	a: Minor						
			•		apter D 290.42(e)(4)(E ination equipment from	•	and electrica	al equipment.	
м		Classification	: Moderate						
			30 TAC Chapter 290 Failure to lock the ro		apter D 290.43(c)(2) es on the two 0.2 MG	ground storage ta	anks located	l at 14th & Av	e.
		Classificatior	Minor						
			30 TAC Chapter 290	SubCh	apter D 290.43(c)(4)				
			•		el indicator on the elev	vated storage tan	k.		
		Classification	1: Minor						
			30 TAC Chapter 290 Failure to have recor		apter D 290.46(f)(2) ssible for review during	g inspections.			
		Classificatior	: Moderate						
		Description: lockable cove		access urbing a	opening with a raised t least two inches in a				3

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B) Description: Failure to keep daily disinfectant residual records.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a) Description: Failure to complete and implement a Monitoring Plan.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

N/A

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/23/2005	(435729)
2	03/13/2006	(458992)
3	07/31/2006	(489492)
4	07/31/2007	(568356)
5	08/15/2008	(686982)
6	09/25/2008	(701581)

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

Date: 11/28/2005 (435729) CN600636609 Classification Moderate Self NO 30 TAC Chapter 290, SubChapter D 290.44(h) Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(ii) 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(iii) 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C) Description: Failure to install and maintain proper backflow assemblies. Minor Classification Self NO Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) Description: Failure to record sanitary control easements around all wells. Classification Moderate Self NO 30 TAC Chapter 288, SubChapter B 288.20 Citation: Description: Failure to prepare a Drought Contingency Plan. Moderate Classification Self NO 30 TAC Chapter 290, SubChapter F 290.121 Citation: Description: Failure to prepare a Monitoring Plan. Classification Minor Self NO 30 TAC Chapter 290, SubChapter D 290.43(c)(1) Citation: Description: Failure to properly vent the ground storage (GS) tank near City Hall. Classification Moderate Self NO 30 TAC Chapter 290, SubChapter D 290.44(h)(3) Citation: Description: Failure to provide an air gap between the filling outlet hose and the receiving tank at the overhead bulk water dispensing station near City Hall.

F. Environmental audits.

N/A

Type of environmental management systems (EMSs).

N/A

G.

H. Voluntary on-site compliance assessment dates.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CITY OF HALE CENTER RN101383982 BEFORE THE TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1644-PWS-E

§

At its _______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Hale Center ("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, represented by Micah Milouf of the law firm of Owen, Voss, Owen, & Melton, P.C., presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

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

I. FINDINGS OF FACT

1. The City owns and operates a public water supply at 702 Main Street in Hale Center, Hale County, Texas (the "Facility") that has approximately 814 service connections and serves at least 25 people per day for at least 60 days per year.

1 **1** . City of Hale Center DOCKET NO: 2008-1644-PWS-E Page 2

- 2. During a record review on September 3, 2008, TCEQ staff documented that the City did not have a pressure indicator located at ground level on the Facility's elevated storage tank. Specifically, at the time of the record review it was documented that the City did not have a pressure indicator located at ground level that is required for the elevated storage tank since the tank is equipped with a float with a moving target indicator.
- 3. During a record review on September 3, 2008, TCEQ staff documented that the City did not provide water system records to Commission personnel at the time of the investigation, including customer service inspection reports, Disinfectant Level Quarterly Operating Reports ("DLQORs"), and the records of backflow prevention device testing.
- 4. The City received notice of the violations on September 30, 2008.
- 5. The Executive Director recognizes that as of October 29, 2008, the City has implemented the following corrective measures:
 - a. Provided a pressure indicator located at ground level on the Facility's elevated storage tank; and

b. Began maintaining water system records, including, but not limited to customer service inspections, DLQORs, and the results of backflow prevention device testing and made these documents available for Commission review.

II. CONCLUSIONS OF LAW

- 1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
- 2. As evidenced by Findings of Fact No. 2, the City failed to provide a pressure indicator on the Facility's elevated storage tank, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4) and TCEQ Agreed Order Docket No. 2007-1402-PWS-E, Ordering Provision No. 3.b.ii.
- 3. As evidenced by Findings of Fact No. 3, the City failed to provide Facility records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and TCEQ Agreed Order Docket No. 2007-1402-PWS-E, Ordering Provision No. 3.a.i.
- 4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
- 5. An administrative penalty in the amount of Three Hundred Thirty-Six Dollars (\$336) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX.

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City of Hale Center DOCKET NO. 2008-1644-PWS-E Page 3

HEALTH & SAFETY CODE § 341.049(b). The City has paid the Three Hundred Thirty-Six Dollar (\$336) administrative penalty.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Three Hundred Thirty-Six Dollars (\$336) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hale Center, Docket No. 2008-1644-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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
- 4. 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.
- 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.

City of Hale Center DOCKET NO. 2008-1644-PWS-E Page 4

7. 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.

City of Hale Center DOCKET NO. 2008-1644-PWS-E Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

the Executive Director

23/2009

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Hale Center. I am authorized to agree to the attached Agreed Order on behalf of the City of Hale Center, 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, the City of Hale Center 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

Name (Printed or typed) Authorized Representative of City of Hale Center

December 1, 2008

Mayor

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order. (1, 2, 2) is the set of the se