

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1848-PWS-E **TCEQ ID:** RN101388825 **CASE NO.:** 36871

RESPONDENT NAME: City of La Ward

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 La Ward Water System, 13053 Highway 172, La Ward, Jackson 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 April 20, 2009. No comments were received.</p> <p>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 William R. Koch, Mayor, City of La Ward, P.O. Box 178, La Ward, Texas 77970 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: October 21, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 21, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to conduct an annual inspection of the Facility's pressure tank as well as an inspection of the interior of the pressure tank within the prior five years [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].</p> <p>4) Failure to provide sanitary control easements covering all land within 150 feet of the Facility's two well sites [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p>	<p>Total Assessed: \$1,664</p> <p>Total Deferred: \$332 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$132 (remaining \$1,200 due in 12 monthly payments of \$100 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, conduct an annual inspection of the Facility's pressure tank, as well as inspect the interior of the Facility's pressure tanks.</p> <p>b. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a; and</p> <p>ii. Secure a sanitary easement covering all property within 150 feet of the well location from adjacent landowners and record the deeds at the county courthouse or obtain an exception to the rule.</p> <p>c. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision b.ii.</p> <p>d. Within 365 days after the effective date of this Agreed Order:</p> <p>i. Provide a total storage capacity of 200 gallons per connection; and</p> <p>ii. Provide a minimum of two service pumps with a minimum capacity of 2.0 gpm per connection.</p> <p>e. Within 380 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 d.</p>

Additional ID No(s): PWS ID No. 1200013



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	24-Nov-2008	Screening	25-Nov-2008	EPA Due	
	PCW	14-Jan-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of La Ward
Reg. Ent. Ref. No.	RN101388825
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36871	No. of Violations	4
Docket No.	2008-1848-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodur
		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	\$1,600
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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	4.0% Enhancement	Subtotals 2, 3, & 7	\$64
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Notes	Enhancement due to two prior Notices of Violation with dissimilar violations as those in the current enforcement action.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$31,454
Approx. Cost of Compliance	\$263,200

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,664
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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	
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Final Penalty Amount	\$1,664
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,664
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DEFERRAL	20.0% Reduction	Adjustment	-\$332
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$1,332
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Screening Date 25-Nov-2008

Docket No. 2008-1848-PWS-E

PCW

Respondent City of La Ward

Policy Revision 2 (September 2002)

Case ID No. 36871

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388825

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 4%

>> 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

Enhancement due to two prior Notices of Violation with dissimilar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 25-Nov-2008	Docket No. 2008-1848-PWS-E	PCW
Respondent City of La Ward		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36871		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN101388825		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and Tex. Health & Safety Code § 341.0315(c)	
Violation Description	Failed to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the investigation, it was documented that the 58 service connections require a minimum storage capacity of 11,600 gallons; however, the Facility provided no storage, indicating a 100% deficiency.	
	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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

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

Matrix Notes Failure to provide a minimum total storage capacity of 200 gallons per connection could result in the Facility's inability to provide a safe and adequate water supply, exposing customers to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two monthly events are recommended, calculated from the investigation date, October 21, 2008, to the screening date, November 25, 2008.

Good Faith Efforts to Comply Reduction

	0.0% Reduction		
		Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	<input type="text"/> (mark with x)	

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

Violation Subtotal

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: City of La Ward
Case ID No.: 36871
Reg. Ent. Reference No.: RN101388825
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	\$262,500	21-Oct-2008	30-Jun-2010	1.69	\$1,479	\$29,582	\$31,061
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: The delayed cost includes the amount necessary to provide a minimum storage capacity of 200 gallons per connection, as well as upgrading the entire Facility. The date required is the date of the investigation date. The final date is the estimated compliance date.

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	\$262,500	TOTAL	\$31,061
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Screening Date 25-Nov-2008	Docket No. 2008-1848-PWS-E	PCW	
Respondent City of La Ward	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36871	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101388825			
Media [Statute] Public Water Supply			
Enf. Coordinator Andrea Linson-Mgbeoduru			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	<input type="text" value="30.Tex. Admin. Code § 290.45(b)(1)(C)(iii) and Tex. Health & Safety Code § 341.0315(c)"/>		
Violation Description	<input 100%="" 116="" 58="" a="" at="" capacity="" connection="" connections="" deficiency."="" documented="" each="" facility="" gpm")="" gpm;="" had="" however,="" indicating="" investigation,="" it="" minimum="" no="" of="" or="" per="" plane.="" pressure="" pump="" pumps,="" require="" service="" specifically,="" station="" that="" the="" time="" type="text" value="Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute (" was=""/>		
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"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>
			Percent <input type="text" value="25%"/>
>> Programmatic Matrix			
			Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Failure to provide a minimum service capacity of 2.0 gpm per connection could result in the Facility's inability to provide a safe and adequate water supply, exposing customers to a significant amount of contaminants which would 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="2"/>		Number of violation days <input type="text" value="35"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text" value="x"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
			Violation Base Penalty <input type="text" value="\$500"/>
<input type="text" value="Two monthly events are recommended, calculated from the investigation date, October 21, 2008, to the screening date, November 25, 2008."/>			
Good Faith Efforts to Comply		Reduction <input type="text" value="0.0%"/>	
		<input type="text" value="\$0"/>	
		<input type="text" value="\$0"/>	
		<input type="text" value="\$0"/>	
		<input type="text" value="x (mark with x)"/>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
Violation Subtotal			<input type="text" value="\$500"/>
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$0"/>		Violation Final Penalty Total <input type="text" value="\$520"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$520"/>

Economic Benefit Worksheet

Respondent: City of La Ward
Case ID No.: 36871
Reg. Ent. Reference No.: RN101388825
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)				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

The delayed cost of compliance are included in the Economic Benefit of Violation #1, based on an estimate provided by the Respondent.

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 \$0

TOTAL \$0

Screening Date 25-Nov-2008	Docket No. 2008-1848-PWS-E	PCW
Respondent City of La Ward		Policy Revision 2 (September 2002)
Case ID No. 36871		PCW Revision October 30, 2008
Reg. Ent. Reference No. RN101388825		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		

Violation Number	3
Rule Cite(s)	30 Tex. Admin. Code § 290.46(m)(1)(B)
Violation Description	Failed to conduct an annual inspection of the Facility's pressure tank as well as an inspection of the interior of the pressure tank within the prior five years.
Base Penalty	\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x			25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes
 Failure to perform annual inspections of the pressure tanks could result in non-detection of tank defects that could expose customers of the water supply to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events	2	35	Number of violation days	
mark only one with an x	daily		Violation Base Penalty	
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
Violation Base Penalty				\$500

Two single events are recommended, based on one event for each inspection.

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			\$500

Economic Benefit (EB) for this violation

Estimated EB Amount	\$376	Statutory Limit Test	
		Violation Final Penalty Total	\$520
This violation Final Assessed Penalty (adjusted for limits)			\$520

Economic Benefit Worksheet

Respondent City of La Ward
Case ID No. 36871
Reg. Ent. Reference No. RN101388825
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)				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	\$100	21-Oct-2007	25-Nov-2008	1.10	\$5	\$110	\$115
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	21-Oct-2003	25-Nov-2008	6.02	\$60	\$200	\$260
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount necessary to perform annual inspections of the system's pressure tank, as well as to inspect the interior of the pressure tanks. The date required for the interior inspection of the pressure tank is five years preceding the investigation date. The final date is the screening date. The date required for the annual inspection is the 12 months preceding the investigation date. The final date is the screening date.

Approx. Cost of Compliance

\$300

TOTAL

\$376

Screening Date 25-Nov-2008	Docket No. 2008-1848-PWS-E	PCW	
Respondent City of La Ward	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36871	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101388825			
Media [Statute] Public Water Supply			
Enf. Coordinator Andrea Linson-Mgbeoduru			
Violation Number <input type="text" value="4"/>			
Rule Cite(s)	30 Tex. Admin. Code § 290.41(c)(1)(F)		
Violation Description	Failed to provide sanitary control easements covering all land within 150 feet of the Facility's two wells.		
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"/>	<input type="text"/>	<input checked="" type="checkbox"/>
			Percent <input type="text" value="5%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
Matrix Notes	Failure to secure sanitary control easements could expose customers of the water supply to insignificant amounts of pollutants which would not exceed levels that are protective of human health.		
Adjustment			<input type="text" value="\$950"/>
			<input type="text" value="\$50"/>
Violation Events			
Number of Violation Events <input type="text" value="2"/>		Number of violation days <input type="text" value="35"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$100"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="checkbox"/>	
Two single events are recommended.			
Good Faith Efforts to Comply			
<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violatio..		
Violation Subtotal			<input type="text" value="\$100"/>
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$17"/>	Violation Final Penalty Total	<input type="text" value="\$104"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$104"/>

Economic Benefit Worksheet

Respondent: City of La Ward
Case ID No.: 36871
Reg. Ent. Reference No.: RN101388825
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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$400	21-Oct-2008	31-Aug-2009	0.86	\$17	n/a	\$17

Notes for DELAYED costs

The delayed cost includes the amount necessary to secure a sanitary control easement covering land within 150 feet of the well site. The date required is the investigation date. The final date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$400

TOTAL \$17

Compliance History Report

Customer/Respondent/Owner-Operator: CN600641708 City of La Ward Classification: AVERAGE Rating: 2.00
 Regulated Entity: RN101388825 CITY OF LA WARD WATER SYSTEM Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1200013
 WATER LICENSING LICENSE 1200013
 Location: 13053 HWY 172, LA WARD, JACKSON COUNTY, TX

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: November 24, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 24, 2003 to November 24, 2008

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

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 judgments, and consent decrees of the state of Texas and the federal government.

N/A

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 02/27/2007 (541449)
- 2 03/15/2007 (644266)
- 3 06/08/2007 (563237)
- 4 10/04/2007 (595918)
- 5 11/21/2008 (707862)

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

Date: 02/27/2007 (541449)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure by the regulated entity to develop and maintain an up to date system monitoring plan.

Self Report? NO

Classification: Minor

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

Description: Failure to maintain an accurate up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)

Description: Failure to maintain a record of the amount of chemical used each week for systems that serve fewer than 250 connections and fewer than 750 people, and use only groundwater or purchase treated water.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)
Description: Failure to install a flow meter on each well pump discharge line to provide water usage records and to assist in more efficient system operation. This meter, in conjunction with tests of water levels in the well, can provide valuable information on the condition of the well and well pump.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
Description: Failure to operate the disinfection equipment to maintain a minimum free chlorine disinfectant residual of 0.2 mg/l in each finished water storage tank and throughout the distribution system.

Date: 03/15/2007 (644266)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LA WARD
RN101388825

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1848-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 La Ward ("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 13053 Highway 172 in La Ward, Jackson County, Texas (the "Facility") that has approximately 58 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 November 26, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Six Hundred Sixty-Four Dollars (\$1,664) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Hundred Thirty-Two Dollars (\$132) of the administrative penalty and Three Hundred Thirty-Two Dollars (\$332) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the

payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

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

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

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on October 21, 2008.
2. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on October 21, 2008.
3. Failed to conduct an annual inspection of the Facility's pressure tank as well as an inspection of the interior of the pressure tank within the prior five years, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B), as documented during an investigation conducted on October 21, 2008.

4. Failed to provide sanitary control easements covering all land within 150 feet of the Facility's two well sites, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on October 21, 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 La Ward, Docket No. 2008-1848-PWS-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, conduct an annual inspection of the Facility's pressure tank, as well as inspect the interior of the Facility's pressure tanks, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 90 days after the effective date of this Agreed Order:
 - i. Submit written certification as described in Ordering Provision No. 2.e below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a; and
 - ii. Secure a sanitary easement covering all property within 150 feet of the well location from adjacent landowners and record the deeds at the county courthouse, as required by 30 TEX. ADMIN. CODE § 290.41, or obtain an exception to the rule, in accordance with 30 TEX. ADMIN. CODE § 290.39(1). Submit sanitary easements and exception requests to:

Texas Commission on Environmental Quality
Water Supply Division, Technical Review & Oversight Team
P. O. Box 13087, MC-155
Austin, Texas 78711-3087

- c. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.ii.
- d. Within 365 days after the effective date of this Agreed Order:
 - i. Provide a total storage capacity of 200 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide a minimum of two service pumps with a minimum capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- e. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. 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
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and

substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zedler
For the Executive Director

3/24/2009
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.

William R Koch
Signature

Feb. 9, 2009
Date

William R. Koch
Name (Printed or typed)
Authorized Representative of
City of La Ward

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.