

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1849-PWS-E **TCEQ ID:** RN101236321 **CASE NO.:** 36776

RESPONDENT NAME: Bexar Metropolitan Water District Public Facility Corporation

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: BMWWD Hill Country, Blackhawk Trail, Tower Drive, Donella Drive, Fleetwood, Aspen/Bitters, Loop 1604, Kights Cross, and Stein Ranch, San Antonio, Bexar County</p> <p>TYPE OF OPERATION: Public water system</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. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jesse Morin, Interim General Manager, Bexar Metropolitan Water District Public Facility Corporation, P.O. Box 245994, San Antonio, Texas 78224 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2008-1849-PWS-E

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: August 13, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 22, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide an elevated storage capacity of 100 gallons per connection at the Knights Cross Facility in the upper Stone Oak pressure plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to provide containment facilities for the liquid chemical storage tank at the Stein Ranch Facility [30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)].</p> <p>3) Failure to maintain records regarding the amount of sodium hypochlorite used each day at the Stein Ranch Facility [30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(II)].</p>	<p>Total Assessed: \$508</p> <p>Total Deferred: \$101 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$407</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the following corrective measures have been taken at the Stein Ranch Facility:</p> <p>a. On September 15, 2008, the Respondent began maintaining records regarding the amount of sodium hypochlorite used each day; and</p> <p>b. On January 13, 2009, the Respondent completed installation of an approved double-wall tank containment system for the sodium hypochlorite solution.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 550 days after the effective date of this Agreed Order, provide an elevated storage capacity of 100 gallons per connection at the Knights Cross Facility, to be called the Hardy Oak Facility; and</p> <p>b. Within 565 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 a.</p>

Additional ID No(s): PWS ID No. 0150054



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	5-Nov-2008	Screening	5-Nov-2008	EPA Due	
	PCW	5-Nov-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	Bexar Metropolitan Water District Public Facility Corporation		
Reg. Ent. Ref. No.	RN101236321		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	36776	No. of Violations	3
Docket No.	2008-1849-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$180,397
Approx. Cost of Compliance	\$1,505,160

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 5-Nov-2008

Docket No. 2008-1849-PWS-E

PCW

Respondent Bexar Metropolitan Water District Public Facility Corporal

Policy Revision 2 (September 2002)

Case ID No. 36776

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101236321

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

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>	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 <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) 0%

>> **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 There is no enhancement due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 5-Nov-2008	Docket No. 2008-1849-PWS-E	PCW																
Respondent Bexar Metropolitan Water District Public Facility Corporation		<i>Policy Revision 2 (September 2002)</i>																
Case ID No. 38776		<i>PCW Revision June 12, 2008</i>																
Reg. Ent. Reference No. RN101236321																		
Media [Statute] Public Water Supply																		
Enf. Coordinator Rebecca Clausewitz																		
Violation Number <input type="text" value="1"/>																		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)"/>																	
Violation Description	<p>Failed to provide an elevated storage capacity of 100 gallons per connection at the Knights Cross Facility in the upper Stone Oak pressure plane. Specifically, the upper Stone Oak pressure plane has 4,422 total connections and there are approximately 529 connections north of the Knights Cross elevated tank that are not provided with sufficient elevated storage because the connections are at a higher elevation than the tank. Instead, pressure is supplied to these connections by four service pumps. The 529 connections that have insufficient elevated storage comprises approximately 12% of the upper Stone Oak pressure plane.</p>																	
	Base Penalty	<input type="text" value="\$1,000"/>																
>> Environmental, Property and Human Health Matrix																		
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> </tr> </table>		Harm			Release	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="25%"/>
	Harm																	
Release	Major	Moderate	Minor															
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Potential	<input type="text"/>	x	<input type="text"/>															
>> Programmatic Matrix																		
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Major	Moderate	Minor	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>								
	Major	Moderate	Minor															
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Matrix Notes	<p>Inadequate pressure due the lack of elevated storage tank capacity could result in customers of the water system experiencing low water pressure and could allow contaminants to enter the water system, exposing customers to significant amounts of contaminants which would not exceed levels that are protective of human health.</p>																	
	Adjustment	<input type="text" value="\$750"/>																
		<input type="text" value="\$250"/>																
Violation Events																		
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="84"/> Number of violation days																
<i>mark only one with an x</i>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td><input type="text"/></td> </tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$250"/>				
daily	<input type="text"/>																	
monthly	<input type="text"/>																	
quarterly	x																	
semiannual	<input type="text"/>																	
annual	<input type="text"/>																	
single event	<input type="text"/>																	
	<p>One quarterly event is recommended, calculated from the date of the investigation, August 13, 2008, to the date of case screening, November 5, 2008.</p>																	
Good Faith Efforts to Comply																		
	<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>																
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)					
	Before NOV	NOV to EDPRP/Settlement Offer																
Extraordinary	<input type="text"/>	<input type="text"/>																
Ordinary	<input type="text"/>	<input type="text"/>																
N/A	x	(mark with x)																
Notes	<p>The Respondent does not meet the good faith criteria for this violation.</p>																	
	Violation Subtotal	<input type="text" value="\$250"/>																
Economic Benefit (EB) for this violation																		
	Estimated EB Amount <input type="text" value="\$180,082"/>	Statutory Limit Test																
		Violation Final Penalty Total <input type="text" value="\$250"/>																
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$250"/>																

Economic Benefit Worksheet

Respondent Bexar Metropolitan Water District Public Facility Corporation
Case ID No. 36776
Reg. Ent. Reference No. RN101236321
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,500,000	13-Aug-2008	1-May-2010	1.72	\$8,575	\$171,507	\$180,082
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 design and construct an additional elevated storage tank for the Knights Cross facility, 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	\$1,500,000	TOTAL	\$180,082
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Screening Date 5-Nov-2008	Docket No. 2008-1849-PWS-E	PCW
Respondent Bexar Metropolitan Water District Public Facility Corporation		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36776		<i>PCW Revision June 12, 2008</i>
Reg. Ent. Reference No. RN101236321		
Media [Statute] Public Water Supply		
Enf. Coordinator Rebecca Clausewitz		
Violation Number	<input type="text" value="2"/>	
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.42(f)(1)(E)(ii)"/>	
Violation Description	<input type="text" value="Failed to provide containment facilities for all liquid chemical storage tanks. Specifically, the sodium hypochlorite tank at the Stein Ranch Facility has no secondary containment."/>	
Base Penalty		<input type="text" value="\$1,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release Major Moderate Minor	
Actual	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>
Percent		<input type="text" value="25%"/>
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>
Percent		<input type="text" value="0%"/>
Matrix Notes	<input type="text" value="A lack of secondary containment for the sodium hypochlorite tank would not allow containment of chemical leaks or spillage. As a result, workers of the Facility and the general population around the Facility could come in contact with a significant amount of sodium hypochlorite that would not exceed levels that are protective of human health."/>	
Adjustment		<input type="text" value="\$750"/>
		<input type="text" value="\$250"/>
Violation Events		
Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="84"/> Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
Violation Base Penalty		<input type="text" value="\$250"/>
<input type="text" value="One quarterly event is recommended, calculated from the date of the investigation, August 13, 2008, to the date of case screening, November 5, 2008."/>		
Good Faith Efforts to Comply		
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"/>	<input type="text" value="(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="\$250"/>
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$147"/>	Violation Final Penalty Total <input type="text" value="\$250"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$250"/>

Economic Benefit Worksheet

Respondent Bexar Metropolitan Water District Public Facility Corporation
Case ID No. 36776
Reg. Ent. Reference No. RN101236321
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$5,000	13-Aug-2008	13-Jan-2009	0.42	\$7	\$140	\$147
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 to purchase and install secondary containment for the sodium hypochlorite tank at the Stein Ranch facility, calculated from the date of the investigation to the date of compliance.

Avoided Costs

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

	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	\$5,000				TOTAL	\$147
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Screening Date 5-Nov-2008	Docket No. 2008-1849-PWS-E	PCW												
Respondent Bexar Metropolitan Water District Public Facility Corporation		<small>Policy Revision 2 (September 2002)</small>												
Case ID No. 36776		<small>PCW Revision June 12, 2008</small>												
Reg. Ent. Reference No. RN101236321														
Media [Statute] Public Water Supply														
Enf. Coordinator Rebecca Clausewitz														
Violation Number <input type="text" value="3"/>														
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.46(f)(3)(A)(i)(II)"/>													
Violation Description	<input type="text" value="Failed to maintain records concerning the amount of sodium hypochlorite used each day at the Stein Ranch Facility."/>													
	Base Penalty	<input type="text" value="\$1,000"/>												
>> Environmental, Property and Human Health Matrix														
OR	Harm													
	Release Major Moderate Minor													
	Actual <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="0%"/>												
	Potential <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>													
>> Programmatic Matrix														
	Falsification Major Moderate Minor													
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text" value="x"/>	Percent <input type="text" value="1%"/>												
Matrix Notes	<input type="text" value="Less than 30% of the rule requirement was not met."/>													
	Adjustment	<input type="text" value="\$990"/>												
		<input type="text" value="\$10"/>												
Violation Events														
Number of Violation Events	<input type="text" value="1"/>	Number of violation days <input type="text" value="33"/>												
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text" value="x"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text" value="x"/>	Violation Base Penalty <input type="text" value="\$10"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text" value="x"/>													
	<input type="text" value="One single event is recommended."/>													
Good Faith Efforts to Comply	25.0% Reduction	<input type="text" value="\$2"/>												
	Before NOV NOV to EDPRP/Settlement Offer													
Extraordinary	<input type="text"/>													
Ordinary	<input type="text" value="x"/>													
N/A	<input type="text"/> (mark with x)													
Notes	<input type="text" value="On September 15, 2008, the Respondent began recording the amount of disinfectant used at the Facility on a daily basis."/>													
	Violation Subtotal	<input type="text" value="\$8"/>												
Economic Benefit (EB) for this violation														
Statutory Limit Test														
Estimated EB Amount	<input type="text" value="\$168"/>	Violation Final Penalty Total <input type="text" value="\$8"/>												
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$8"/>													

Economic Benefit Worksheet

Respondent Bexar Metropolitan Water District Public Facility Corporation
Case ID No. 36776
Reg. Ent. Reference No. RN101236321
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
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No commas or \$

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$160	13-Aug-2008	15-Sep-2008	1.01	\$8	\$160	\$168
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to maintain records of the amount of disinfectant used each day at the Stein Ranch Facility, calculated from the date of the investigation, to the date of compliance.

Approx. Cost of Compliance

\$160

TOTAL

\$168

Compliance History Report

Customer/Respondent/Owner-Operator: CN600652739 Bexar Metropolitan Water District Public Facility Corporation Classification: AVERAGE Rating: 2.00

Regulated Entity: RN101236321 BMWWD HILL COUNTRY Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0150054
WATER LICENSING LICENSE 0150054

Location: 6 PLANTS AT SEPARATE LOCATIONS, BEXAR COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: October 28, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 28, 2003 to October 28, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rebecca Clausewitz Phone: (210) 403-4012

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 01/14/2004 (287636)
 - 2 01/03/2006 (439821)
 - 3 08/21/2007 (572568)
 - 4 09/22/2008 (689567)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

BEXAR METROPOLITAN WATER
DISTRICT PUBLIC FACILITY
CORPORATION
RN101236321

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§
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§
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§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1849-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 Bexar Metropolitan Water District Public Facility 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water system known as the Hill Country System with facilities located at Blackhawk Trail, Tower Drive, Donella Drive, Fleetwood, Aspen and Bitters, Loop 1604, Knights Cross and Stein Ranch in San Antonio, Bexar County, Texas (the "Facilities") that have approximately 15,226 service connections and serve at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 27, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Five Hundred Eight Dollars (\$508) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Seven Dollars (\$407) of the administrative penalty and One Hundred One Dollars (\$101) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the following corrective measures have been taken at the Stein Ranch Facility:
 - a. On September 15, 2008, the Respondent began maintaining records regarding the amount of sodium hypochlorite used each day; and
 - b. On January 13, 2009, the Respondent completed installation of an approved double-wall tank containment system for the sodium hypochlorite solution.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facilities, the Respondent is alleged to have:

1. Failed to provide an elevated storage capacity of 100 gallons per connection at the Knights Cross Facility in the upper Stone Oak pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on August 13, 2008.
2. Failed to provide containment facilities for the liquid chemical storage tank at the Stein Ranch Facility, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii), as documented during an investigation conducted on August 13, 2008.
3. Failed to maintain records regarding the amount of sodium hypochlorite used each day at the Stein Ranch Facility, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(II), as documented during an investigation conducted on August 13, 2008.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent'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: Bexar Metropolitan Water District Public Facility Corporation, Docket No. 2008-1849-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 Respondent shall undertake the following technical requirements:
 - a. Within 550 days after the effective date of this Agreed Order, provide an elevated storage capacity of 100 gallons per connection at the Knights Cross Facility, to be called the Hardy Oak Facility, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - b. Within 565 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.a. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 Facilities' 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. 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.
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 Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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



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.



Signature

2/13/09
Date

Jesse Morin
Name (Printed or typed)
Authorized Representative of
Bexar Metropolitan Water District Public Facility Corporation

Interim General Manager
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.

