

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0274-PWS-E TCEQ ID: RN102692183 CASE NO.: 37192

RESPONDENT NAME: Bi-County Water Supply Corporation

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Bi-County WSC 3, 4094 Farm-to-Market Road 2254, Camp County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 29, 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. Harlon T. Taylor, Registered Agent, Bi-County Water Supply Corporation, P.O. Box 848, Pittsburg, Texas 75686-0848; Mr. James Davis, President, Bi-County Water Supply Corporation, P.O. Box 848, Pittsburg, Texas 75686-0848 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 31, 2008</p> <p>Date of NOV/NOE Relating to this Case: January 22, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to provide a minimum pressure tank capacity of 20 gallons per connection in the Cason 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 a minimum of two service pumps with a total capacity of 2.0 gallons per minute (gpm) per connection in the Cason pressure plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$575</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$575</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has had three prior NOV's issued for the same violations in the last five years.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 180 days after the effective date of this Agreed Order:</p> <p>i) Provide a minimum pressure tank capacity of 20 gallons per connection in the Cason pressure plane; and</p> <p>ii) Provide a minimum of two service pumps with a total capacity of 2.0 gpm per connection in the Cason pressure plane.</p> <p>b) Within 195 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. 1720013



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-Jan-2009	Screening	20-Feb-2009	EPA Due	
	PCW	24-Feb-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Bi-County Water Supply Corporation
Reg. Ent. Ref. No.	RN102692183
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37192	No. of Violations	2
Docket No.	2009-0274-PWS-E	Order Type	Findings
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: The enhancement is due to three prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$1,692
Approx. Cost of Compliance	\$8,500

*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:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 20-Feb-2009

Docket No. 2009-0274-PWS-E

PCW

Respondent Bi-County Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 37192

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102692183

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 (number of NOVs meeting criteria)	3	15%
	Other written NOVs	0	0%
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 judgments 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) 15%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The enhancement is due to three prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 20-Feb-2009	Docket No. 2009-0274-PWS-E	PCW
Respondent Bi-County Water Supply Corporation	<small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>	
Case ID No. 37192		
Reg. Ent. Reference No. RN102692183		
Media [Statute] Public Water Supply		
Enf. Coordinator Rebecca Clausewitz		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)	
Violation Description	Failed to provide a minimum pressure tank capacity of 20 gallons per connection in the Cason pressure plane. Specifically, with 349 connections in the Cason pressure plane, the Facility must provide a minimum of 6,980 gallons of pressure tank capacity; however, the Facility currently maintains 6,100 gallons of pressure tank capacity, which is a 13% deficiency.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	x	<input type="checkbox"/>	Percent <input style="width:50px;" type="text" value="25%"/>

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input style="width:50px;" type="text" value="0%"/>

Matrix Notes	Failure to provide sufficient pressure tank capacity could result in low pressure throughout the distribution system and/or backflow issues to arise, exposing customers to a significant amount of contaminants that would not exceed levels protective of human health.
Adjustment <input style="width:100px;" type="text" value="\$750"/>	

Violation Events

Number of Violation Events <input style="width:50px;" type="text" value="1"/>		Number of violation days <input style="width:50px;" type="text" value="51"/>															
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>weekly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>monthly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>annual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	weekly	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	x	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>	Violation Base Penalty <input style="width:100px;" type="text" value="\$250"/>	
daily	<input type="checkbox"/>																
weekly	<input type="checkbox"/>																
monthly	<input type="checkbox"/>																
quarterly	x																
semiannual	<input type="checkbox"/>																
annual	<input type="checkbox"/>																
single event	<input type="checkbox"/>																

One quarterly event is recommended, calculated from the date of the record review, December 31, 2008, to the date of screening, February 20, 2009.

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	x	(mark with x)	<input type="checkbox"/>	
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				<input style="width:100px;" type="text" value="\$250"/>

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width:100px;" type="text" value="\$1,294"/>	Violation Final Penalty Total <input style="width:100px;" type="text" value="\$288"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width:100px;" type="text" value="\$288"/>	

Economic Benefit Worksheet

Respondent Bi-County Water Supply Corporation
Case ID No. 37192
Reg. Ent. Reference No. RN102692183
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0
Engineering/construction	\$6,500	27-Feb-2007	31-Dec-2009	2.84	\$62	\$1,232	\$1,294
Land			0.00	\$0	n/a	\$0	\$0
Record Keeping System			0.00	\$0	n/a	\$0	\$0
Training/Sampling			0.00	\$0	n/a	\$0	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0	\$0
Permit Costs			0.00	\$0	n/a	\$0	\$0
Other (as needed)			0.00	\$0	n/a	\$0	\$0

Notes for DELAYED costs
 The delayed cost includes the amount to increase the pressure tank capacity to meet the minimum requirement of 20 gallons per connection, calculated from the date of the previous investigation documenting the violation, 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	\$0
Personnel			0.00	\$0	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$6,500 **TOTAL** \$1,294

Screening Date 20-Feb-2009	Docket No. 2009-0274-PWS-E	PCW			
Respondent Bi-County Water Supply Corporation		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37192		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN102692183					
Media [Statute] Public Water Supply					
Enf. Coordinator Rebecca Clausewitz					
Violation Number <input type="text" value="2"/>					
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(D)(iii) and Tex. Health & Safety Code § 341.0315(c)				
Violation Description	Failed to provide a minimum of two service pumps with a total capacity of 2.0 gallons per minute (gpm) per connection in the Cason pressure plane. Specifically, with 349 connections in the Cason pressure plane, the Facility must maintain two service pumps that provide a minimum total service pump capacity of 698 total gpm; however, the Facility currently provides two service pumps with a total service pump capacity of 390 total gpm, which is a 44% deficiency.				
	Base Penalty	<input type="text" value="\$1,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="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	Failure to provide adequate service pump capacity could result in low pressure throughout the distribution system and/or backflow issues to arise, exposing customers to a significant amount of contaminants that would not exceed levels 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="51"/>	Number of violation days	
<small>mark only one with an x</small>		daily	<input type="text"/>		
		weekly	<input type="text"/>		
		monthly	<input type="text"/>		
		quarterly	x		Violation Base Penalty <input type="text" value="\$250"/>
		semiannual	<input type="text"/>		
		annual	<input type="text"/>		
		single event	<input type="text"/>		
	One quarterly event is recommended, calculated from the date of the record review, December 31, 2008, to the date of screening, February 20, 2009.				
Good Faith Efforts to Comply					
		<input type="text" value="0.0%"/>	Reduction		<input type="text" value="\$0"/>
			<small>Before NOV</small>	<small>NOV to EDP RP/Settlement Offer</small>	
	Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.				
					Violation Subtotal <input type="text" value="\$250"/>
Economic Benefit (EB) for this violation					
			Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$398"/>		Violation Final Penalty Total	<input type="text" value="\$288"/>	
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$288"/>	

Economic Benefit Worksheet

Respondent Bi-County Water Supply Corporation
Case ID No. 37192
Reg. Ent. Reference No. RN102692183
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**
Item Description No commas or \$

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$2,000	27-Feb-2007	31-Dec-2009	2.84	\$19	\$379	\$398
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 increase the total service pump capacity to meet the minimum requirement of 2.0 gpm per connection, calculated from the date of the previous investigation documenting the violation, to the estimated 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 \$2,000 **TOTAL** \$398

Compliance History Report

Customer/Respondent/Owner-Operator: CN600676027 Bi-County Water Supply Corporation Classification: Rating:
Regulated Entity: RN102692183 BI COUNTY WSC 3 Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1720013
Location: 4094 FM 2254, CAMP COUNTY, TX, 75686
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: February 20, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 20, 2004 to February 20, 2009
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	12/08/2005	(435408)
2	04/27/2007	(540384)
3	11/14/2008	(707270)
4	01/23/2009	(722461)

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

Date:	12/09/2005	(435408)	CN600676027
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.39(l)(1) 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)		
Description:	Failure to acquire approval by the Executive Director for an exception to change the disinfectant used.		

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)
 Description: Failure to have a plant operations manual.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.121
 Description: Failure 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(f)(3)(B)(iii)
 Description: Failure to collect and document disinfectant residual tests representative of the distribution system.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)
 Description: Failure to provide for commission review results of annual tank inspections.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
 Description: Failure to maintain storage tanks in accordance with AWWA standards.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to provide for commission review an approved sanitary control easement, ordinance, deed or exception letter.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to maintain intruder resistant fence.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
 Description: Failure to provide the minimum pressure tank capacity.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
 Description: Failure to provide the minimum service pump capacity.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)
 Description: Failure to protect gas chlorine cylinders from adverse weather.

Date: 04/27/2007 (540384) CN600676027
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(l)(1)
 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
 Description: Failure to acquire approval by the Executive Director for an exception to change the disinfectant used.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)
 Description: Failure to have a plant operations manual.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.121
 Description: Failure 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(f)(3)(B)(iii)
 Description: Failure to collect and document disinfectant residual tests representative of the distribution system.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)
 Description: Failure to provide for commission review results of annual tank inspections.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to maintain storage tanks in accordance with AWWA standards.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide for commission review an approved sanitary control easement, ordinance, deed or exception letter.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to maintain intruder resistant fence.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
Description: Failure to provide the minimum pressure tank capacity.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to provide the minimum service pump capacity.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)
Description: Failure to protect gas chlorine cylinders from adverse weather.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to maintain copies of properly completed Customer Service Inspection certifications on file.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to calibrate the well meters at least every three years.

Date: 11/14/2008 (707270) CN600676027

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to have a plant operations manual.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to maintain storage tanks in accordance with AWWA standards.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
Description: Failure to provide the minimum pressure tank capacity.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to provide the minimum service pump capacity.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to maintain copies of properly completed Customer Service Inspection certifications on file.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to calibrate the well meters at least every three years.

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
BI-COUNTY WATER SUPPLY
CORPORATION
RN102692183

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2009-0274-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 Bi-County Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 4094 Farm-to-Market Road 2254 in Camp County, Texas (the "Facility") that has approximately 585 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on December 31, 2008, TCEQ staff documented that the Respondent did not provide a minimum pressure tank capacity of 20 gallons per connection in the Cason pressure plane. Specifically, with 349 connections in the Cason pressure plane, the Facility must provide a minimum of 6,980 gallons of pressure tank capacity; however, the Facility currently maintains 6,100 gallons of pressure tank capacity, which is a 13% deficiency.

3. During a record review conducted on December 31, 2008, TCEQ staff documented the Respondent did not provide a minimum of two service pumps with a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, with 349 connections in the Cason pressure plane, the Facility must maintain two service pumps that provide a minimum total service pump capacity of 698 total gpm; however, the Facility currently provides two service pumps with a total service pump capacity of 390 total gpm, which is a 44% deficiency.
4. The Respondent received notice of the violations on January 27, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide a minimum pressure tank capacity of 20 gallons per connection in the Cason pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide a minimum of two service pumps with a total capacity of 2.0 gallons per minute (gpm) per connection in the Cason pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Five Hundred Seventy-Five Dollars (\$575) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Five Hundred Seventy-Five Dollar (\$575) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Five Hundred Seventy-Five Dollars (\$575) 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 Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Bi-County Water Supply Corporation, Docket No. 2009-0274-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 180 days after the effective date of this Agreed Order:
 - i. Provide a minimum pressure tank capacity of 20 gallons per connection in the Cason pressure plane, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide a minimum of two service pumps with a total capacity of 2.0 gpm per connection in the Cason pressure plane, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- b. Within 195 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 fines 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:

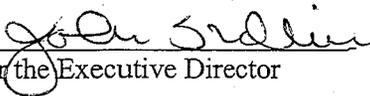
Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/27/2009

Date

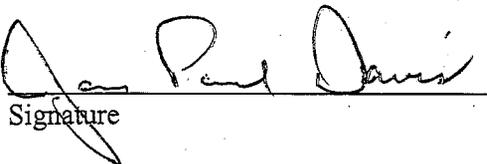
I, the undersigned, have read and understand the attached Agreed Order in the matter of Bi-County Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Bi-County Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Bi-County Water Supply Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

April 15, 2009

Date

Mr. James Davis

Name (Printed or typed)
Authorized Representative of
Bi-County Water Supply Corporation

President

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.

