

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0309-PWS-E **TCEQ ID:** RN101423671 **CASE NO.:** 37244

RESPONDENT NAME: City of West Tawakoni

| | | |
|--|---|--|
| 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: City of West Tawakoni PWS, 1533 East State Highway 276, West Tawakoni, Hunt 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 June 29, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Bill Stausing, Mayor, City of West Tawakoni, 1533 East State Highway 276, West Tawakoni, Texas 75474 Mr. Cloy Richards, City Administrator, City of West Tawakoni, 1533 East State Highway 276, West Tawakoni, Texas 75474 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: February 4, 2009</p> <p>Date of NOV/NOE Relating to this Case: February 6, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5"), based on a running annual average for the third quarter of 2007 through the second quarter of 2008 and the fourth quarter of 2008 [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to comply with the MCL of 0.080 mg/L for total trihalomethanes ("TTHM"), based on a running annual average for the third quarter of 2006 and the third quarter of 2007 through the fourth quarter of 2008 [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> | <p>Total Assessed: \$5,850</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: \$5,850</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>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order:</p> <p>i. Return to compliance with the running annual average MCL for HAA5; and</p> <p>ii. Return to compliance with the running annual average MCL for TTHM.</p> <p>b. Within 385 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 1160012



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|------------|---------|------------|
| DATES | Assigned | 23-Feb-2009 | Screening | 4-Mar-2009 | EPA Due | 1-Jun-2007 |
| | PCW | 4-Mar-2009 | | | | |

| | | | |
|--|-----------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | City of West Tawakoni | | |
| Reg. Ent. Ref. No. | RN101423671 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Major |

| | | | |
|-------------------------|---------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37244 | No. of Violations | 2 |
| Docket No. | 2009-0309-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Stephen Thompson |
| | | 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: Enhancement is due to 12 NOVs containing violations similar to those in the current enforcement action, two dissimilar NOVs, one agreed final enforcement order containing a denial of liability and two agreed final enforcement orders without a denial of liability.

Culpability Enhancement Subtotal 4

Notes:

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance
 *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 4-Mar-2009

Docket No. 2009-0309-PWS-E

PCW

Respondent City of West Tawakoni

Policy Revision 2 (September 2002)

Case ID No. 37244

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101423671

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

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) | 12 | 60% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 2 | 50% |
| 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% |
| <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) 134%

>> **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 is due to 12 NOVs containing violations similar to those in the current enforcement action, two dissimilar NOVs, one agreed final enforcement order containing a denial of liability and two agreed final enforcement orders without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 134%

| | | |
|---|--|--|
| Screening Date 4-Mar-2009 | Docket No. 2009-0309-PWS-E | PCW |
| Respondent City of West Tawakoni | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 37244 | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. RN101423671 | | |
| Media [Statute] Public Water Supply | | |
| Enf. Coordinator Stephen Thompson | | |
| Violation Number 1 | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health & Safety Code § 341.0315(c) | |
| Violation Description | Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5"), based on a running annual average for the third quarter of 2007 through the second quarter of 2008 and the fourth quarter of 2008. See attached table. | |
| | Base Penalty | \$1,000 |
| >> Environmental, Property and Human Health Matrix | | |
| OR | Harm | |
| | Release | Major Moderate Minor |
| | Actual | x |
| | Potential | |
| | Percent | 50% |
| >> Programmatic Matrix | | |
| | Falsification Major Moderate Minor | |
| | | x |
| | Percent | 0% |
| Matrix Notes | Customers of the water supply have been exposed to significant amounts of contaminants which did not exceed levels protective of human health. | |
| | Adjustment | \$500 |
| | | \$500 |
| Violation Events | | |
| | Number of Violation Events | 2 |
| | | 549 Number of violation days |
| <i>mark only one with an x</i> | daily | |
| | weekly | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | x |
| | single event | |
| | Violation Base Penalty | \$1,000 |
| | Two annual events are recommended. | |
| Good Faith Efforts to Comply | | |
| | 0.0% Reduction | \$0 |
| | Before NOV NOV to EDPRP/Settlement Offer | |
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |
| Notes | The Respondent does not meet the good faith criteria for this violation. | |
| | Violation Subtotal | \$1,000 |
| Economic Benefit (EB) for this violation | | |
| | Statutory Limit Test | |
| Estimated EB Amount | \$555 | Violation Final Penalty Total \$2,340 |
| | | This violation Final Assessed Penalty (adjusted for limits) \$2,340 |

Economic Benefit Worksheet

Respondent City of West Tawakoni
Case ID No. 37244
Reg. Ent. Reference No. RN101423671
Media Public Water Supply
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|------------|------|------|-------|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$2,500 | 1-Jul-2007 | 1-Sep-2010 | 3.17 | \$26 | \$529 | \$555 |
| 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 costs include the amount necessary to implement an alternate method of disinfection, calculated from the first quarter of non-compliance 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

\$2,500

TOTAL

\$555

| | | | | |
|---|---|--|---|--------------------------------------|
| Screening Date 4-Mar-2009 | Docket No. 2009-0309-PWS-E | PCW | | |
| Respondent City of West Tawakoni | | <small>Policy Revision 2 (September 2002)</small> | | |
| Case ID No. 37244 | | <small>PCW Revision October 30, 2008</small> | | |
| Reg. Ent. Reference No. RN101423671 | | | | |
| Media [Statute] Public Water Supply | | | | |
| Enf. Coordinator Stephen Thompson | | | | |
| Violation Number <input type="text" value="2"/> | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c) | | | |
| Violation Description | Failed to comply with the MCL of 0.080 mg/L for total trihalomethanes ("TTHM"), based on a running annual average for the third quarter of 2006 and the third quarter of 2007 through the fourth quarter of 2008. See attached table. | | | |
| | Base Penalty | <input type="text" value="\$1,000"/> | | |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="text"/> | X | <input type="text"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | | | Percent | <input type="text" value="50%"/> |
| >> 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 | Customers of the water supply have been exposed to significant amounts of contaminants which did not exceed levels protective of human health. | | | |
| | | | Adjustment | <input type="text" value="\$500"/> |
| <input type="text" value="\$500"/> | | | | |
| Violation Events | | | | |
| | Number of Violation Events | <input type="text" value="3"/> | Number of violation days | <input type="text" value="914"/> |
| | <small>mark only one with an x</small> | daily | <input type="text"/> | |
| | | weekly | <input type="text"/> | |
| | | monthly | <input type="text"/> | |
| | | quarterly | <input type="text"/> | |
| | | semiannual | <input type="text"/> | |
| | | annual | X | |
| | | single event | <input type="text"/> | |
| | | Three annual 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 | X | (mark with x) | |
| | Notes | The Respondent does not meet the good faith criteria for this violation. | | |
| | | | Violation Subtotal | <input type="text" value="\$1,500"/> |
| Economic Benefit (EB) for this violation | | | | |
| | Estimated EB Amount | <input type="text" value="\$730"/> | Statutory Limit Test | |
| | | | Violation Final Penalty Total | <input type="text" value="\$3,510"/> |
| | | | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$3,510"/> |

Economic Benefit Worksheet

Respondent City of West Tawakoni
Case ID No. 37244
Reg. Ent. Reference No. RN101423671
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

| Equipment | | | 0.00 | \$0 | \$0 | \$0 |
|--------------------------|---------|------------|------------|------|------|-------|
| Buildings | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$2,500 | 1-Jul-2006 | 1-Sep-2010 | 4.17 | \$35 | \$695 |
| 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 costs include the amount necessary to implement an alternate method of disinfection, calculated from the first quarter of non-compliance 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 \$2,500

TOTAL \$730

**Table of Running Annual Averages for
Drinking Water Contaminants**

| | |
|-------------------------|-----------------------|
| Respondent | City of West Tawakoni |
| Case ID No. | 37244 |
| Docket No. | 2009-0309-PWS-E |
| Enf. Coordinator | Stephen Thompson |

Corresponds to Violation Number: 1

HAA5

MCL: 0.060 mg/L

| Quarter/Year | 3rd Quarter of 2007 | 4th Quarter of 2007 | 1st Quarter of 2008 | 2nd Quarter of 2008 | 4th Quarter of 2008 | | |
|---|------------------------|------------------------|------------------------|------------------------|------------------------|--|--|
| Running Annual Average (in mg/L) | 0.081 | 0.068 | 0.076 | 0.074 | 0.063 | | |

**Table of Running Annual Averages for
Drinking Water Contaminants**

| | |
|-------------------------|-----------------------|
| Respondent | City of West Tawakoni |
| Case ID No. | 37244 |
| Docket No. | 2009-0309-PWS-E |
| Enf. Coordinator | Stephen Thompson |

Corresponds to Violation Number: 2

TTHM
MCL: 0.080 mg/L

| Quarter/Year | 3rd Quarter of 2006 | 3rd Quarter of 2007 | 4th Quarter of 2007 | 1st Quarter of 2008 | 2nd Quarter of 2008 | 3rd Quarter of 2008 | 4th Quarter of 2008 |
|---|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| Running Annual Average (in mg/L) | 0.089 | 0.092 | 0.105 | 0.115 | 0.120 | 0.111 | 0.102 |

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(3)(C)

Description: Failure to provide an adequate intruder-resistant fence in order to protect the surface water treatment plant.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(C)

Description: Failure to label the caustic storage tank.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(i)

Description: Failure to provide rate of flow controllers on each filter.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)

Description: failed to properly identify the influent, effluent, waste backwash, and chemical feedlines

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(a)

Description: Failure to provide sufficient plant capacity to accommodate the maximum daily usage of your system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)

Description: Failure to calibrate on-line turbidimeters with primary standards at least once every 90 days.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)

Description: Failure to verify the calibration of the on-line turbidimeters at least once a week.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failure to verify the accuracy of manual disinfectant residual analyzers at least once every 30 days using chlorine solutions of known concentrations.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)

Description: failed to calibrate the continuous disinfectant residual analyzers using chlorine solutions for known concentrations at least once every 90 days

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description: Failure to inspect both the ground and elevated storage tanks at least annually,

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(B)

5A THC Chapter 341, SubChapter A 341.033(a)

Description: failed to employ at least two properly licensed operators when the Facility serves more than 1,000 connections

Effective Date: 04/28/2008

ADMINORDER 2007-0535-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)

5A THC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: Docket No. 2001-1357-PWS-E, OP 2.e.i. ORDER

Description: Failure to provide a treatment plant capacity of 0.6 gallons per minute (gpm) per connection under normal rated design flow.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)

5A THC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: Docket No. 2001-1357-PWS-E, OP 2.e.iii. ORDER

Description: Failure to provide a transfer pump capacity of 0.6 gpm per connection with the largest pump out of service.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to maintain copies of all Customer Service Inspection reports that are required to be performed prior to providing continuous water service to new construction.

Classification: Minor

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

30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements.

Classification: Moderate

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

Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, on the date of the investigation, the inspector noted rust on the treatment plant flocculator and the system clearwell was in need of paint.

Classification: Moderate

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

Description: Failure to have a certified backflow prevention assembly tester conduct an annual inspection of the backflow prevention assembly installed at the waste water treatment plant.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)

Description: Failure to maintain the calibration records for the finished water flow meter.

Classification: Moderate

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

Description: Failure to provide a legible sign at the Rabbit Cove Road facility that includes the name of the water supply and a telephone number where a responsible official can be contacted in the event of an emergency.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to maintain a thorough and up-to-date plant operations manual for operator review and reference. Specifically, on the date of the investigation, the plant operations manual was found to contain information that was outdated.

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 | 04/30/2004 | (261315) |
| 2 | 06/22/2005 | (379249) |
| 3 | 12/02/2005 | (436275) |
| 4 | 08/31/2006 | (467074) |
| 5 | 01/02/2007 | (726314) |
| 6 | 08/13/2007 | (571641) |
| 7 | 08/21/2007 | (572869) |
| 8 | 11/08/2007 | (725623) |
| 9 | 11/08/2007 | (726104) |
| 10 | 01/09/2008 | (611042) |
| 11 | 02/08/2008 | (725625) |
| 12 | 02/08/2008 | (726107) |
| 13 | 03/25/2008 | (640144) |
| 14 | 07/30/2008 | (725627) |
| 15 | 07/30/2008 | (726108) |
| 16 | 08/28/2008 | (725642) |
| 17 | 08/28/2008 | (726122) |
| 18 | 11/03/2008 | (726125) |
| 19 | 01/16/2009 | (726102) |
| 20 | 01/23/2009 | (725371) |
| 21 | 02/18/2009 | (726853) |

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

Date: 06/24/2005 (379249)

CN600428361

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)

Description: Failure to provide adequate containment facilities for all liquids chemical storage tanks.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to maintain copies of all Customer Service Inspection reports that are

required to be performed prior to providing continuous water service to new construction.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
30 TAC Chapter 290, SubChapter F 290.121(b)
Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain the map of the distribution system current so that valves and mains may be easily located during emergencies.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(k)
Description: Failure to compile and maintain current a thorough plant operations manual for operator review and reference.

Date: 07/14/2006 (467074) CN600428361

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)
Description: Failure to provide a minimum raw water pump capacity of 0.6 gallons per minute per connection with the largest pump out of service.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to inspect both the ground and elevated storage tanks at least annually,

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
Description: Failure to provide a treatment plant capacity of 0.6 gallons per minute (gpm) per connection under normal rated design flow as per Agreed Order Docket No 2001-1357-PWS-E Ordering Provision2.e.i.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)
Description: Failure to provide a transfer pump capacity of at least 0.6 gallons per minute per connection as per Agreed Order Docket No 2001-1357-PWS-E Ordering Provision2.e.iii.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)
Description: Failure to maintain copies of all Customer Service Inspection reports that are required to be performed prior to providing continuous water service to new construction.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
30 TAC Chapter 290, SubChapter F 290.121(b)
Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain the map of the distribution system current so that valves and mains may be easily located during emergencies.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, on the date of the investigation, the inspector noted rust on the treatment plant flocculator and the system clearwell was in need of paint.

Date: 01/02/2007 (726314) CN600428361

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006.

Date: 11/08/2007 (725623) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2007.

Date: 11/08/2007 (726104) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.

Date: 02/08/2008 (726107) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Date: 02/08/2008 (725625) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2007.

Date: 07/30/2008 (726108) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Date: 07/30/2008 (725627) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2008.

Date: 08/28/2008 (725642) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2008.

Date: 08/28/2008 (726122) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

Date: 11/03/2008 (726125) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.

Date: 01/16/2009 (726102) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2008.

Date: 01/23/2009 (725371) CN600428361

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2008.

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 WEST TAWAKONI
RN101423671

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0309-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of West Tawakoni ("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 presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a public water supply at 1533 East State Highway 276 in West Tawakoni, Hunt County, Texas (the "Facility") that has approximately 1,190 service connections and serves at least 25 people per day for at least 60 days per year.

- During a record review conducted on February 4, 2009, TCEQ staff documented that the City did not comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5"), based on a running annual average for the third quarter of 2007 through the second quarter of 2008 and the fourth quarter of 2008, as indicated in the table below.

| HAA5 | | | | | |
|---|---|---|---|---|---|
| MCL: 0.060 mg/L | | | | | |
| Quarter/Year | 3rd Quarter of 2007 | 4th Quarter of 2007 | 1st Quarter of 2008 | 2nd Quarter of 2008 | 4th Quarter of 2008 |
| Running Annual Average (in mg/L) | 0.081 | 0.068 | 0.076 | 0.074 | 0.063 |

- During a record review conducted on February 4, 2009, TCEQ staff documented that the City did not comply with the MCL of 0.080 mg/L for total trihalomethanes ("TTHM"), based on a running annual average for the third quarter of 2006 and the third quarter of 2007 through the fourth quarter of 2008, as indicated in the table below.

| TTHM | | | | | | | |
|---|---|---|---|---|---|---|---|
| MCL: 0.080 mg/L | | | | | | | |
| Quarter/Year | 3rd Quarter of 2006 | 3rd Quarter of 2007 | 4th Quarter of 2007 | 1st Quarter of 2008 | 2nd Quarter of 2008 | 3rd Quarter of 2008 | 4th Quarter of 2008 |
| Running Annual Average (in mg/L) | 0.089 | 0.092 | 0.105 | 0.115 | 0.120 | 0.111 | 0.102 |

- The City received notice of the violations on February 11, 2009.

II. CONCLUSIONS OF LAW

- The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
- As evidenced by Findings of Fact No. 2, the City failed to comply with the MCL of 0.060 mg/L for HAA5, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
- As evidenced by Findings of Fact No. 3, the City failed to comply with the MCL of 0.080 mg/L for TTHM, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) 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 City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Five Thousand Eight Hundred Fifty Dollars (\$5,850) 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 City has paid the Five Thousand Eight Hundred Fifty Dollar (\$5,850) administrative penalty.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Five Thousand Eight Hundred Fifty Dollars (\$5,850) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of West Tawakoni, Docket No. 2009-0309-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 City shall undertake the following technical requirements:
 - a. Within 365 after the effective date of this Agreed Order:
 - i. Return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - ii. Return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113.
 - b. Within 385 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.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 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 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
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 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.

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

Date 5/27/2009

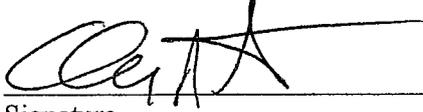
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of West Tawakoni. I am authorized to agree to the attached Agreed Order on behalf of the City of West Tawakoni, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in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

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

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

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

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



Signature

Date 4-20-09

Cloy Richards

Name (Printed or typed)
Authorized Representative of
City of West Tawakoni

City Administrator

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.