

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0547-PWS-E **TCEQ ID:** RN101214815 **CASE NO.:** 37473
RESPONDENT NAME: City of Granite Shoals

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 Granite Shoals, 410 North Phillips Ranch Road, Granite Shoals, Burnet County</p> <p>TYPE OF OPERATION: Municipal 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 September 7, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 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: The Honorable Frank Reilly, Mayor, City of Granite Shoals, 410 North Phillips Ranch Road, Granite Shoals, Texas 78654 Ms. Peggy Allen-Smith, Water Department Manager, City of Granite Shoals, 410 North Phillips Ranch Road, Granite Shoals, Texas 78654 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: March 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 11, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Exceeded the running annual average maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$1,330</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,330</p> <p>Total Paid (Due) to General Revenue: \$0</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 three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.</p>

Additional ID No(s): PWS ID No. 0270049

Attachment A
Docket Number: 2009-0547-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Granite Shoals
Payable Penalty Amount:	One Thousand Three Hundred Thirty Dollars (\$1,330)
SEP Amount:	One Thousand Three Hundred Thirty Dollars (\$1,330)
Type of SEP:	Pre-approved
Third-Party Recipient:	Lower Colorado River Authority's Household Hazardous Waste and Reusable Materials Collection
Location of SEP:	Burnet County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Lower Colorado River Authority ("LCRA") Household Hazardous Waste and Reusable Materials Collection. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Lower Colorado River Authority and the Texas Commission on Environmental Quality*. SEP monies will be used to sponsor household hazardous waste collection events, battery collection events, used oil collection events, paint collection events, and tire collection events in conjunction with local city and county governments through the LCRA Statutory District. These collection events provide citizens with a safe and convenient opportunity to properly dispose of household hazardous wastes such as: paint, tires, pesticides, motor oil, oil filters, antifreeze, batteries, and household cleaners. Citizens will be encouraged to reuse unused portions of properly labeled and handled chemical products (i.e. fertilizers, paints, and some pesticides/herbicides) through the reusable materials exchange. SEP monies will be used by LCRA to supplement scheduled events, and to add additional collection events. The LCRA has not previously budgeted for these supplemental, additional, or special collection events and will not budget for them.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a safe and convenient means for proper disposal of household hazardous waste. The program helps protect the environment, particularly the Edwards Aquifer and groundwater sources. It also discourages illegal dumping of hazardous materials by providing a convenient and free source for waste disposal.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lower Colorado River Authority
Attn: Jack Ranney
PO Box 220
Austin, Texas 78767-0220

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

City Of Granite Shoals
Agreed Order – Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	23-Mar-2009	Screening	7-Apr-2009	EPA Due	31-Aug-2008
	PCW	16-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Granite Shoals
Reg. Ent. Ref. No.	RN101214815
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37473	No. of Violations	1
Docket No.	2009-0547-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	\$1,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	33.0% Enhancement	Subtotals 2, 3, & 7	\$330
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Notes: The compliance history enhancement is due to five prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action and four prior NOVs containing dissimilar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,138
 Approx. Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,330
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,330
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,330
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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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	\$1,330
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Screening Date 7-Apr-2009

Docket No. 2009-0547-PWS-E

PCW

Respondent City of Granite Shoals

Policy Revision 2 (September 2002)

Case ID No. 37473

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101214815

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)	5	25%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 33%

>> 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 compliance history enhancement is due to five prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action and four prior NOV's containing dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 33%

Screening Date 7-Apr-2009	Docket No. 2009-0547-PWS-E	PCW			
Respondent City of Granite Shoals	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 37473	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN101214815					
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 § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)"/>				
Violation Description	<input ("mg="" ("tthm"),="" 0.080="" 0.082="" 0.083="" 0.091="" 0.106="" 2007,="" 2008,="" 2008."="" a="" and="" annual="" average="" average.="" based="" concentration="" first="" for="" fourth="" l="" l")="" liter="" mcl")="" mg="" milligrams="" of="" on="" per="" quarter="" quarters="" running="" second="" specifically,="" the="" third="" total="" trihalomethanes="" tthm="" type="text" value="Exceeded the maximum contaminant level (" was=""/>				
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	<input type="text" value="Exceeding the MCL for TTHM has exposed the Facility's customers to significant amounts of contaminants which do not exceed levels that are 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="2"/>	<input type="text" value="456"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
	weekly	<input type="text"/>	<input type="text"/>		
	monthly	<input type="text"/>	<input type="text"/>		
	quarterly	<input type="text"/>	<input type="text"/>		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	x	<input type="text"/>		
single event	<input type="text"/>	<input type="text"/>			
<input type="text" value="Two 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"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
N/A	x	(mark with x)			
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
		Violation Subtotal	<input type="text" value="\$1,000"/>		
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$1,138"/>	Violation Final Penalty Total		<input type="text" value="\$1,330"/>
		This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,330"/>	

Economic Benefit Worksheet

Respondent City of Granite Shoals
Case ID No. 37473
Reg. Ent. Reference No. RN101214815
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)	\$5,000	1-Jul-2007	30-Sep-2010	3.25	\$54	\$1,084	\$1,138
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 estimated amount to implement an alternative disinfection method that will eliminate or reduce the TTHM exceedances, calculated from the initial date of the exceedances 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	\$5,000	TOTAL	\$1,138
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Compliance History Report

Customer/Respondent/Owner-Operator: CN600657407 City of Granite Shoals Classification: Rating:
Regulated Entity: RN101214815 CITY OF GRANITE SHOALS Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0270049
WATER LICENSING LICENSE 0270049
Location: 410 NORTH PHILLIPS RANCH RD, GRANITE SHOALS, BURNET COUNTY, TEXAS
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: April 07, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 07, 2004 to April 07, 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator 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	04/08/2004	(261179)
2	06/22/2004	(275544)
3	09/17/2004	(334097)
4	10/25/2004	(334778)
5	03/03/2005	(372044)
6	02/16/2006	(455420)
7	01/12/2007	(535467)
8	01/28/2008	(737543)
9	03/18/2008	(737680)
10	04/03/2008	(737687)
11	08/28/2008	(737688)
12	02/05/2009	(709081)
13	03/05/2009	(737691)
14	03/18/2009	(738375)

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

Date: 04/09/2004 (261179) CN600657407
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)
30 TAC Chapter 290, SubChapter D 290.42(f)
Description: Failure to provide chemical containment.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 288, SubChapter B 288.20
Description: Failure to have documentation of a drought contingency plan.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)
Description: Failure to have an annual test on the backflow prevention device at the animal shelter.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)
Description: Failure to label surface water treatment plant pipes.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the clearwell. The clearwell had a hole in it.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to refinish the water system's clarifier.

Date: 09/21/2004 (290217) CN600657407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to provide a minimum water system pressure of at least 35 pounds per square inch in the distribution system.

Date: 10/25/2004 (334778) CN600657407
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)
Description: Failed to provide a minimum raw water pump capacity.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121
Description: Failed to develop and maintain a chemical and microbiological monitoring plan.

Date: 01/28/2008 (737543) CN600657407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.

Date: 03/18/2008 (737680) CN600657407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Date: 04/03/2008 (737687) CN600657407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Date: 08/28/2008 (737688) CN600657407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

Date: 02/06/2009 (709081) CN600657407
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence around the Kingswood plant.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)
Description: Failure to provide labels on three chemical storage day tanks at the water treatment plant.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)
Description: Failure to provide containment for the liquid ammonium sulfate (LAS) day tank at the raw water pump station.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to maintain distribution lines in a watertight manner.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 285, SubChapter H 285.81
Description: Failure to properly dispose of graywater from the pump station located on Phillips Ranch Road.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(B)
Description: Failure to employ two operators with appropriate level certifications.

Date: 03/05/2009 (737691) CN600657407
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
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 GRANITE SHOALS
RN101214815

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0547-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 City of Granite Shoals ("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 municipal public water supply at 410 North Phillips Ranch Road in Granite Shoals, Burnet County, Texas (the "Facility") that has approximately 1,888 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on March 9, 2009, TCEQ staff documented that the City exceeded the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentration for TTHM was 0.082 mg/L for the third and fourth quarters of 2007, 0.091 mg/L for the first quarter of 2008, 0.106 mg/L for the second quarter of 2008, and 0.083 mg/L for the fourth quarter of 2008.

3. The City received notice of the violations on March 12, 2009.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the City exceeded the running annual average 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).
3. 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.
4. An administrative penalty in the amount of One Thousand Three Hundred Thirty Dollars (\$1,330) 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). One Thousand Three Hundred Thirty Dollars (\$1,330) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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 One Thousand Three Hundred Thirty Dollars (\$1,330) as set forth in Section II, Paragraph 4 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 Granite Shoals, Docket No. 2009-0547-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 4 above, One Thousand Three Hundred Thirty Dollars (\$1,330) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 3.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 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:

DBP Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. 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.

5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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

John S. Sullivan
For the Executive Director

8/19/2009
Date

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

Peggy Allen-Smith
Signature

7-3-2009
Date

Peggy Allen-Smith
Name (Printed or typed)
Authorized Representative of
City of Granite Shoals

Water Dept. Manager
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.

Attachment A
Docket Number: 2009-0547-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Granite Shoals

Payable Penalty Amount: One Thousand Three Hundred Thirty Dollars (\$1,330)

SEP Amount: One Thousand Three Hundred Thirty Dollars (\$1,330)

Type of SEP: Pre-approved

Third-Party Recipient: Lower Colorado River Authority's Household Hazardous Waste and Reusable Materials Collection

Location of SEP: Burnet County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Lower Colorado River Authority ("LCRA") Household Hazardous Waste and Reusable Materials Collection. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Lower Colorado River Authority and the Texas Commission on Environmental Quality*. SEP monies will be used to sponsor household hazardous waste collection events, battery collection events, used oil collection events, paint collection events, and tire collection events in conjunction with local city and county governments through the LCRA Statutory District. These collection events provide citizens with a safe and convenient opportunity to properly dispose of household hazardous wastes such as: paint, tires, pesticides, motor oil, oil filters, antifreeze, batteries, and household cleaners. Citizens will be encouraged to reuse unused portions of properly labeled and handled chemical products (i.e. fertilizers, paints, and some pesticides/herbicides) through the reusable materials exchange. SEP monies will be used by LCRA to supplement scheduled events, and to add additional collection events. The LCRA has not previously budgeted for these supplemental, additional, or special collection events and will not budget for them.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a safe and convenient means for proper disposal of household hazardous waste. The program helps protect the environment, particularly the Edwards Aquifer and groundwater sources. It also discourages illegal dumping of hazardous materials by providing a convenient and free source for waste disposal.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lower Colorado River Authority
Attn: Jack Ranney
PO Box 220
Austin, Texas 78767-0220

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

City Of Granite Shoals
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

