

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0458-PWS-E **TCEQ ID:** RN102677937 **CASE NO.:** 37382
RESPONDENT NAME: City of Petrolia

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Petrolia, 109 South Central Avenue, Petrolia, Clay County</p> <p>TYPE OF OPERATION: Municipal public water system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 10, 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: The Honorable Cindy Armour, Mayor, City of Petrolia, P.O. Box 154, Petrolia, Texas 76377-0154 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 3, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 4, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to obtain Commission approval prior to changing the disinfection process at the surface water treatment facility [30 TEX. ADMIN. CODE § 290.39(j)].</p> <p>2) Failure to provide each well with a flow measuring device to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].</p>	<p>Total Assessed: \$1,008.</p> <p>Total Deferred: \$201 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$807</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>Additional ID No(s): PWS ID No. 0390002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Install a flow measuring device on each of the 12 wells at the Facility to measure production yields and provide for the accumulation of water production data, or obtain a Commission-approved exception to the rule requirement; and</p> <p>ii. Submit plans and specifications for the change in the disinfection process at the surface water treatment facility. These plans and specifications shall be prepared under the direction of a licensed professional engineer and have engineering seals, signatures, and dates affixed in accordance with the rules of the Texas Board of Professional Engineers.</p> <p>b. Within 75 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> <p>c. Respond completely and adequately, as determined by the TCEQ, to all requests for additional information within 30 days of such requests, or by any other deadline specified in writing;</p> <p>d. Within 120 days after the effective date of this Agreed Order, obtain Commission approval of the plans and specifications submitted under Ordering Provision a.ii; and</p> <p>e. Within 135 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision d.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Mar-2009	Screening	27-Mar-2009	EPA Due	
	PCW	27-Mar-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Petrolia		
Reg. Ent. Ref. No.	RN102677937		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37382	No. of Violations	2
Docket No.	2009-0458-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes
The enhancement is due to one prior Notice of Violation (NOV) containing violations that are the same as or similar to the violations in the current enforcement action, seven prior NOV's containing dissimilar violations, and one prior agreed final enforcement order without a denial of liability.

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
Approx. Cost of Compliance

*Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **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

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 27-Mar-2009

Docket No. 2009-0458-PWS-E

PCW

Respondent City of Petrolia

Policy Revision 2 (September 2002)

Case ID No. 37382

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102677937

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)	1	5%
	Other written NOVs	7	14%
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	1	25%
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) 44%

>> 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

The enhancement is due to one prior Notice of Violation (NOV) containing violations that are the same as or similar to the violations in the current enforcement action, seven prior NOVs containing dissimilar violations, and one prior agreed final enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 44%

Screening Date 27-Mar-2009	Docket No. 2009-0458-PWS-E	PCW		
Respondent City of Petroli	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37382	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN102677937				
Media [Statute] Public Water Supply				
Enf. Coordinator Rebecca Clausewitz				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 290.39(j)			
Violation Description	Failed to obtain Commission approval prior to changing the disinfection process at the surface water treatment facility. Specifically, as of the date of the current record review conducted on March 3, 2009, the Commission had not received the appropriate information from the Respondent that would allow for approval of the new disinfection process at the surface water treatment facility.			
Base Penalty		\$1,000		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
	Major Moderate Minor			
Actual	<input type="text"/>	<input type="text"/>		
Potential	<input type="text"/>	<input type="text"/>		
		Percent <input type="text" value="0%"/>		
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent <input type="text" value="10%"/>		
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment		\$900
		\$100		
Violation Events				
Number of Violation Events		<input type="text" value="1"/>		
		<input type="text" value="357"/> 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	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
		Violation Base Penalty		
		\$100		
One single event is recommended.				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>			
Ordinary	<input type="text"/>			
N/A	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal		\$100
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		Violation Final Penalty Total		\$144
<input type="text" value="\$12"/>		<input type="text" value="\$144"/>		
		This violation Final Assessed Penalty (adjusted for limits)		\$144

Economic Benefit Worksheet

Respondent City of Petrolia
Case ID No. 37382
Reg. Ent. Reference No. RN102677937
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)				0.00	\$0	\$0	\$0
Engineering/construction	\$100	11-Mar-2008	1-Dec-2009	1.73	\$1	\$12	\$12
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 to re-submit the engineering study and plans and specifications for the new disinfection method, calculated from the date of the initial investigation to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **TOTAL**

\$100	\$12
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Screening Date 27-Mar-2009 **Docket No.** 2009-0458-PWS-E **PCW**
Respondent City of Petrolia *Policy Revision 2 (September 2002)*
Case ID No. 37382 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102677937
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Good Faith Efforts to Comply

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Petrolia
Case ID No. 37382
Reg. Ent. Reference No. RN102677937
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$7,200	11-Mar-2008	1-Dec-2009	1.73	\$41	\$828	\$870
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 costs include the amount to purchase and install 12 flow meters (\$600 per meter), calculated from the date of the initial investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,200

TOTAL

\$870

Compliance History Report

Customer/Respondent/Owner-Operator: CN600860720 City of Petrolia Classification: AVERAGE Rating: 1.89
Regulated Entity: RN102677937 CITY OF PETROLIA Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0390002
WATER LICENSING LICENSE 0390002
MUNICIPAL SOLID WASTE PROCESSING PERMIT 120021
Location: 109 S CENTRAL AVE, PETROLIA, CLAY COUNTY, TX, 76377
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: March 27, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 27, 2004 to March 27, 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.

Effective Date: 04/28/2008

ADMINORDER 2007-1794-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average during the second quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average during the first quarter of 2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average during the second quarter of 2007.

- 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	08/30/2004	(292887)
2	10/13/2004	(337660)
3	08/03/2005	(403298)
4	05/31/2006	(465226)
5	07/12/2006	(595182)
6	04/19/2007	(595832)
7	04/19/2007	(652226)
8	05/31/2007	(562202)
9	08/10/2007	(595835)
10	08/10/2007	(652683)
11	08/30/2007	(574092)
12	10/17/2007	(597773)
13	11/15/2007	(653052)
14	02/08/2008	(652119)
15	03/27/2008	(639212)
16	03/04/2009	(737391)

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

Date: 08/30/2004 (292887) CN600860720
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
Description: FAILURE TO HAVE A CLASS "B" SURFACE WATER OPERATOR.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(c)(2)
Description: FAILURE TO SUBMIT A CHEMICAL AND MICROBIOLOGICAL MONITORING PLAN.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)
Description: FAILURE TO COMPLETE AND SUBMIT DISINFECTION LEVEL QUARTERLY OPERATING REPORT (DLQOR).

Date: 05/31/2006 (465226) CN600860720
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: FAILURE TO CALIBRATE RAW, TREATED, AND BACKWASH METERS EVERY 12 MONTHS.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)
Description: FAILURE TO CALIBRATE MANUAL CHLORINE ANALYZER
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)
Description: FAILURE TO CALIBRATE ONLINE CHLORINE ANALYZER.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)
Description: FAILURE TO CALIBRATE BENCHTOP TURBIDIMETER.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)
Description: FAILURE TO CONDUCT CALIBRATION CHECK EACH DAY ON BENCH TOP TURBIDIMETER.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)
Description: FAILURE TO CALIBRATE ONLINE TURBIDIMETER EVERY 90 DAYS.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)
Description: FAILURE TO CONDUCT CALIBRATION CHECK ON ONLINE TURBIDIMETER EACH WEEK.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(i)
Description: FAILURE TO CALIBRATE PH METER DAILY.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.112(c)
Description: FAILURE TO CONDUCT TOC SAMPLING.

Date: 07/12/2006 (595182) CN600860720
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: Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average during the second quarter of 2006.

Date: 04/19/2007 (595832) CN600860720
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: Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average during the first quarter of 2007.

Date: 08/10/2007 (595835) CN600860720
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: Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average during the second quarter of 2007.

Date: 11/15/2007 (653052) CN600860720
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TOTAL TRIHALOMETHANES

Date: 02/08/2008 (652119) CN600860720
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TOTAL TRIHALOMETHANES

Date: 03/28/2008 (639212) CN600860720
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to annually inspect the storage tanks.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to calibrate the well flow meter once every three years.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)
Description: Failure to notify the TCEQ prior to changing the disinfection process at the surface water treatment plant.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)
Description: Failure to provide a flow meter for each well.

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 PETROLIA
RN102677937

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0458-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Petrolia ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a municipal public water system at 109 South Central Avenue in Petrolia, Clay County, Texas (the "Facility") that has approximately 375 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about March 9, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Eight Dollars (\$1,008) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Eight Hundred Seven Dollars (\$807) of the administrative penalty and Two Hundred One Dollars (\$201) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

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

II. ALLEGATIONS

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

1. Failed to obtain Commission approval prior to changing the disinfection process at the surface water treatment facility, in violation of 30 TEX. ADMIN. CODE § 290.39(j), as documented during a record review conducted on March 3, 2009.
2. Failed to provide each well with a flow measuring device to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during a record review conducted on March 3, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Petrolia, Docket No. 2009-0458-PWS-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
- a. Within 60 days after the effective date of this Agreed Order:
 - i. Install a flow measuring device on each of the 12 wells at the Facility to measure production yields and provide for the accumulation of water production data, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain a Commission-approved exception to the rule requirement; and
 - ii. Submit plans and specifications for the change in the disinfection process at the surface water treatment facility. These plans and specifications shall be prepared under the direction of a licensed professional engineer and have engineering seals, signatures, and dates affixed in accordance with the rules of the Texas Board of Professional Engineers. The plans and specifications shall be submitted to:

Utilities Technical Review
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.
- c. Respond completely and adequately, as determined by the TCEQ, to all requests for additional information within 30 days of such requests, or by any other deadline specified in writing.
- d. Within 120 days after the effective date of this Agreed Order, obtain Commission approval of the plans and specifications submitted under Ordering Provision 2.a.ii, as required by 30 TEX. ADMIN. CODE § 290.39.
- e. Within 135 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.d.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

I certify under penalty of law that 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
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sallier

For the Executive Director

8/6/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Cindy Armour

Signature

6/5/09

Date

Cindy Armour

Name (Printed or typed)
Authorized Representative of
City of Petrolia

Mayor

Title

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

