

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1650-PWS-E TCEQ ID: RN103934733 CASE NO.: 36669
RESPONDENT NAME: CITY OF OVERTON

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 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

SITE WHERE VIOLATION(S) OCCURRED: 1498 Farm-to-Market (FM) Road 850 East, Rusk County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired December 21, 2009. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-3400
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Water Enforcement Section, MC 169, (512) 239-1482
TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174
Respondent: Honorable John Edd Welch, Mayor, City of Overton, 1200 South Commerce, Overton, Texas 75684
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: August 14, 2008</p> <p>Date of NOE Relating to this Case: October 13, 2008</p> <p>Background Facts: The EDPRP was filed on February 24, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on October 21, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to provide a sanitary control easement covering all land within 150 feet of three of the Facility's wells [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)]. Failed to maintain the Facility's ground storage tank in strict accordance with American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(8)]. Failed to provide two or more pumps that have a total capacity of 2.0 gpm per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. Failed to complete a customer service inspection certificate prior to providing continuous service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the Facility [30 TEX. ADMIN. CODE § 290.46(j)]. 	<p>Total Assessed: \$2,108</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$183/\$1,925</p> <p>The Respondent paid \$183 of the administrative penalty. The remaining amount of \$1,925 shall be payable in 11 monthly payments of \$175 each.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 60 days: <ol style="list-style-type: none"> Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility's equipment, including but not limited to the removal of trees and vines growing in and through the fence at the Facility; and Complete customer service inspection certificates for the approximately 90 connections added to the Facility and the following connections where it is believed potential contaminant hazards exist: Cottle-Pearson Funeral Home, Burrows Funeral Home, Overton Wash and Vacuum, Overton Animal Clinic, Dr. James Hamilton Medical Clinic, and a nursing home. Within 90 days: <ol style="list-style-type: none"> Submit written certification demonstrating compliance with Ordering Provisions 1.a. and 1.b.; and Obtain a sanitary control easement that covers the land within 150 feet of the Facility's three wells. Within 180 days: <ol style="list-style-type: none"> Provide a minimum of two service pumps with a minimum capacity of 2.0 gpm per connection; Recoat the interior of the ground storage tank at the Facility to meet AWWA standards; Obtain approval for the as-built plans of the elevated storage tank; and Submit written certification demonstrating compliance with Ordering Provision 2.b. Within 195 days, submit written certification demonstrating compliance with Ordering Provisions 3.a., 3.b., and 3.c.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment and failing to provide a properly constructed intruder-resistant fence in order to protect the Facility's equipment [30 TEX. ADMIN. CODE §§ 290.43(e) and 290.46(m)].</p> <p>6. Failed to obtain written approval of plans and specifications prior to any construction of the public water system and make it available at the time of the investigation [30 TEX. ADMIN. CODE § 290.39(h)(1)].</p>		



Penalty Calculation Worksheet (PCW)

DATES	Assigned	13-Oct-2008	Screening	15-Oct-2008	EPA Due	
	PCW	2-Feb-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Overton		
Reg. Ent. Ref. No.	RN103934733		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36669	No. of Violations	6
Docket No.	2008-1650-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeoduru
		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	\$1,550
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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	36.0% Enhancement	Subtotals 2, 3, & 7	\$558
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Notes: Enhancement recommended due to two Notices of Violation (NOV) with same or similar violations as those in the current enforcement action, three dissimilar NOV and one agreed final enforcement order containing a denial of liability.

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: \$13,087
 Approx. Cost of Compliance: \$78,260
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,108
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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	\$2,108
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,108
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$2,108
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Screening Date 15-Oct-2008

Docket No. 2008-1650-PWS-E

PCW

Respondent City of Overton

Policy Revision 2 (September 2002)

Case ID No. 36669

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN103934733

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

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)	2	10%
	Other written NOVs	3	6%
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	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%
<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) 36%

>> 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

Enhancement recommended due to two Notices of Violation (NOV) with same or similar violations as those in the current enforcement action, three dissimilar NOV and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 36%

Screening Date 15-Oct-2008 **Docket No.** 2008-1650-PWS-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 36669 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN103934733
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)
Violation Description Failed to provide a sanitary control easement covering all land within 150 feet of three of the Facility's wells.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential		x	10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to secure sanitary control easements could expose customers of the water supply to insignificant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3 62 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$300

Three single events are recommended, based on one single event for three wells.

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 \$300

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

Estimated EB Amount \$33

Violation Final Penalty Total \$408

This violation Final Assessed Penalty (adjusted for limits) \$408

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 36669
Reg. Ent. Reference No. RN103934733
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				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)	\$300	17-May-2007	31-Jul-2009	2.21	\$33	n/a	\$33

Notes for DELAYED costs
 The delayed cost includes the administrative cost for securing and recording the easements (three easements at \$100 each) at the County Clerk's Office. The date required is the date of the investigation initially documenting the violation. The final date is 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 \$300

TOTAL \$33

Screening Date 15-Oct-2008 **Docket No.** 2008-1650-PWS-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 36669 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN103934733
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8)
Violation Description Failed to maintain the Facility's ground storage tank in strict accordance with American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the interior coating of the ground storage tank at the Farm-to-Market ("FM") Road 850 plant was deteriorating.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to maintain the ground storage tank in accordance with AWWA standards could allow a significant amount of pollutants to enter the system which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 62 Number of violation days
 mark only one with an x
 daily
 monthly
 quarterly x
 semiannual
 annual
 single event

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the investigation date, August 14, 2008, to the screening date, October 15, 2008.

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 \$250

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

Estimated EB Amount \$7,922 **Violation Final Penalty Total** \$340

This violation Final Assessed Penalty (adjusted for limits) \$340

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 36669
Reg. Ent. Reference No. RN103934733
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
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	\$46,000	17-May-2007	31-Oct-2009	2.46	\$377	\$7,545	\$7,922
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 includes the amount to recoat the interior of the ground storage tank to meet AWWA standards. The date required is the date of the investigation initially documenting the violation. The final date is 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	\$46,000	TOTAL	\$7,922
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Screening Date 15-Oct-2008 **Docket No.** 2008-1650-PWS-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 36669 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN103934733
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iii) and Tex. Health & Safety Code § 341.0315(c)
Violation Description Failed to provide two or more pumps that have a total capacity of 2.0 gpm per connection. Specifically, at the time of the investigation, it was documented that the required pressure pump capacity is 811 gpm; however, the Facility provides 680 gpm, indicating a 16% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Failure to provide adequate pumping capacity may result in low pressure and water outages potentially exposing customers of the water supply to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$750
\$250

Violation Events

Number of Violation Events 1 62 Number of violation days
 mark only one with an x
 daily
 monthly
 quarterly x
 semiannual
 annual
 single event

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the investigation date, August 14, 2008, to the screening date, October 15, 2008.

Good Faith Efforts to Comply 0.0% Reduction Before NOV NOV to EDRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

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

Estimated EB Amount \$4,788 **Violation Final Penalty Total** \$340

This violation Final Assessed Penalty (adjusted for limits) \$340

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 36669
Reg. Ent. Reference No. RN103934733
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$27,800	17-May-2007	31-Oct-2009	2.46	\$228	\$4,560	\$4,788
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the amount necessary to provide a total capacity of 2.0 gpm per connection. The date required is the date of the investigation initially documenting the violation. The final date is 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	\$27,800	TOTAL	\$4,788
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Screening Date 15-Oct-2008 **Docket No.** 2008-1650-PWS-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 36669 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN103934733
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 290.46(j)
Violation Description
 Failed to complete a customer service inspection certificate prior to providing continous service to new construction, or any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the Facility. Specifically, at the time of the investigation, it was documented that the City failed to provide customer service inspection certificates for approximately 90 new service connections added to the Facility and six locations where it is believed that potential contaminant hazards exist.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

Matrix Notes
100% of the rule requirement was not met.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 62 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is 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 \$250

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$102 Violation Final Penalty Total \$340

This violation Final Assessed Penalty (adjusted for limits) \$340

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 36669
Reg. Ent. Reference No. RN103934733
Media Public Water Supply
Violation No. 4

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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$960	17-May-2007	30-Jun-2009	2.12	\$102	n/a	\$102
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs The delayed cost includes the amount necessary to complete customer service inspection certificates at the identified locations (\$10 per certificate x 96 locations). The date required is the date of the investigation initially documenting the violation. The final date is 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 \$960

TOTAL \$102

Screening Date 15-Oct-2008 **Docket No.** 2008-1650-PWS-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 36669 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN103934733
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(m) and 290.43(e)
Violation Description Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment and failed to provide a properly constructed intruder-resistant fence in order to protect the Facility's equipment. Specifically, at the time of the investigation, it was documented that the fence at the FM 850 facility was overgrown with trees and vines.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to properly secure the Facility's equipment with an intruder-resistant fence may allow persons to enter and vandalize the equipment compromising the Facility's ability to provide a safe and adequate water supply exposing customers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 62 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the investigation date, August 14, 2008, to the screening date, October 15, 2008.

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 \$250

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

Estimated EB Amount \$30 **Violation Final Penalty Total** \$340

This violation Final Assessed Penalty (adjusted for limits) \$340

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 36669
Reg. Ent. Reference No. RN103934733
Media Public Water Supply
Violation No. 5

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)	\$200	17-May-2007	30-Jun-2009	2.12	\$1	\$28	\$30
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the amount to remove the vegetation growing in and around the fence including rehabilitating the fence as necessary to ensure that it is intruder-resistant. The date required is the date of the investigation initially documenting the violation. The final date is 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 \$200

TOTAL \$30

Screening Date 15-Oct-2008 **Docket No.** 2008-1650-PWS-E **PCW**
Respondent City of Overton *Policy Revision 2 (September 2002)*
Case ID No. 36669 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN103934733
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 290.39(h)(1)
Violation Description Failed to obtain written approval of plans and specifications prior to any construction of the public water system and make it available at the time of the investigation. Specifically, at the time of the investigation, it was documented that City officials were not able to produce TCEQ plan approval for the construction of the new elevated storage tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$750

\$250

Violation Events

Number of Violation Events: 1 62 Number of violation days
 mark only one with an x
 daily:
 monthly:
 quarterly:
 semiannual:
 annual:
 single event:

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

Before NOV NOV to EDPRP/Settlement Offer
 Extraordinary:
 Ordinary:
 N/A: (mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$212 Violation Final Penalty Total \$340

This violation Final Assessed Penalty (adjusted for limits) \$340

Economic Benefit Worksheet

Respondent City of Overton
Case ID No. 36669
Reg. Ent. Reference No. RN103934733
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	17-May-2007	15-Oct-2008	1.42	\$212	n/a	\$212

Notes for DELAYED costs
 The avoided cost includes the amount necessary to to prepare, submit, and obtain approval of water system plans and specifications that have been prepared by a licensed, professional engineer, calculated from the date of the investigation to the screening

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	\$3,000	TOTAL	\$212
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caulking compound.

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

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to maintain the gate on the fence surrounding the ground storage tank locked to exclude possible contamination or damage to the facilities by trespassers.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to maintain the elevated storage tank.
Date: 05/18/2007 (652362)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TOTAL TRIHALOMETHANES
Date: 07/23/2007 (567464)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
Description: Failure to design and maintain a water distribution system to provide at all points within the distribution network a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute at each service outlet or connection.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to seal each wellhead with the use of gaskets or a pliable crack-resistant caulking compound.

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

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to maintain the gate on the fence surrounding the ground storage tank locked to exclude possible contamination or damage to the facilities by trespassers.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to maintain the elevated storage tank.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
5A THSC Chapter 341, SubChapter A 341.036
Description: Failure to provide for commission review an approved sanitary control easement, ordinance, deed or exception letter.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
Description: Failure to maintain the chlorination room vent fan

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

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
Description: Failure to provide adequate vent screens on all storage tanks

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)
Description: Failure to provide an adequate backflow prevention assembly.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
5A THSC Chapter 341, SubChapter A 341.0315
Description: Failure to provide the minimum service pump capacity.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to complete a customer service inspection certification for applicable facilities.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failure to adopt an adequate plumbing ordinance, regulations or a service agreement.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain intruder resistant fences.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to inspect the storage tanks at least annually.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to provide a well casing vent screen.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.39(h)
5A THSC Chapter 341, SubChapter A 341.035
Description: Failure to obtain written approval for the newly constructed elevated storage tank.

Date: 07/29/2008 (688179)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the required minimum disinfectant residual when disinfection equipment is available.

Date: 10/03/2008 (703601)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)
Description: Failure to maintain adequate residual disinfectant concentration.

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 OVERTON;
RN103934733**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-1650-PWS-E

I. JURISDICTION AND STIPULATIONS

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

1. Overton owns and operates a public water system located at 1498 Farm-to-Market (FM) Road 850 East, Rusk County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 1,226 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Overton agree that the Commission has jurisdiction to enter this Agreed Order, and that Overton is subject to the Commission's jurisdiction.
4. Overton received notice of the violations alleged in Section II ("Allegations") on or about October 18, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Overton of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of two thousand one hundred eight dollars (\$2,108.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Overton paid one hundred eighty three dollars (\$183.00) of the administrative penalty. The remaining amount of one thousand nine hundred twenty-five dollars (\$1,925.00) of the administrative penalty shall be payable in 11 monthly payments of one hundred seventy-five dollars (\$175.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Overton fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Overton's failure to meet the payment schedule of this Agreed Order constitutes the failure by Overton to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. 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.
8. The Executive Director of the TCEQ and Overton agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Overton has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on August 14, 2008, a TCEQ Tyler Regional Office investigator documented that Overton violated:

- a. 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) by failing to provide a sanitary control easement covering all land within 150 feet of three of the Facility's wells.

- b. 30 TEX. ADMIN. CODE § 290.43(c)(8) by failing to maintain the Facility's ground storage tank in strict accordance with American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the interior coating of the ground storage tank at the Facility was deteriorating.
- c. 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c) by failing to provide two or more pumps that have a total capacity of 2.0 gpm per connection. Specifically, at the time of the investigation, it was documented that the required pressure pump capacity is 811 gpm; however the Facility provides 680 gpm, indicating a 16% deficiency.
- d. 30 TEX. ADMIN. CODE § 290.46(j) by failing to complete a customer service inspection certificate prior to providing continuous service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the Facility. Specifically, at the time of the investigation, it was documented that the City failed to provide customer service inspection certificates for approximately 90 new service connections added to the Facility and six locations where it is believed that potential contaminant hazards exist.
- e. 30 TEX. ADMIN. CODE §§ 290.43(e) and 290.46(m) by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment and failing to provide a properly constructed intruder-resistant fence in order to protect the Facility's equipment. Specifically, at the time of the investigation, it was documented that the fence at the Facility was overgrown with trees and vines.
- f. 30 TEX. ADMIN. CODE § 290.39(h)(1) by failing to obtain written approval of plans and specifications prior to any construction of the public water system and make it available at the time of the investigation. Specifically, at the time of the investigation, it was documented that City officials were not able to produce TCEQ plan approval for the construction of the new elevated storage tank.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Overton pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Overton'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Overton, Docket No. 2008-1650-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. Overton shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, Overton shall:
 - i. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility's equipment, including but not limited to the removal of trees and vines growing in and through the fence at the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.43; and
 - ii. Complete customer service inspection certificates for the approximately 90 connections added to the Facility and the following connections where it is believed potential contaminant hazards exists: Cottle-Pearson Funeral Home, Burrows Funeral Home, Overton Wash and Vacuum, Overton Animal Clinic, Dr. James Hamilton Medical Clinic and a nursing home, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 90 days after the effective date of this Agreed Order, Overton shall:
 - i. Submit written certification as described in Ordering Provision no. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the ordering provision in Ordering Provision no. 2.a. above; and

- ii. Obtain a sanitary control easement that covers the land within 150 feet of the Facility's three wells, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- c. Within 180 days after the effective date of this Agreed Order, Overton shall:
 - i. Provide a minimum of two service pumps with a minimum capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45;
 - ii. Recoat the interior of the ground storage tank at the Facility to meet AWWA standards, as required by 30 TEX. ADMIN. CODE § 290.43; and
 - iii. Obtain approval for the as-built plans of the elevated storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.39.
 - iv. Submit written certification as described in Ordering Provision no. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the ordering provision requested in Ordering Provision no. 2.b.ii above.
- d. Within 195 days after the effective date of this Agreed Order, Overton shall submit written certification as described below in Ordering Provision no. 2.e. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the ordering provisions requested in Ordering Provision nos. 2.c.i., c.ii. and c.iii.
- e. The certifications required by Ordering Provision nos. 2.b.i., 2.c.iv., and 2.d. shall include detailed supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance. The certifications 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."

Overton shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision nos. 2.a.i., 2.a.ii., 2.b.ii., 2.c.i., 2.c.ii. and 2.c.iii. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

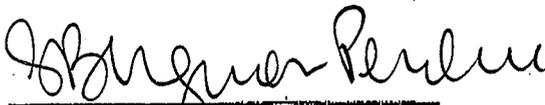
Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon Overton. Overton 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 Overton shall be made in writing to the Executive Director. Extensions are not effective until Overton 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 Overton 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Overton, or three days after the date on which the Commission mails notice of this Agreed Order to Overton, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/22/09

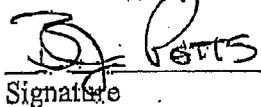
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Overton's compliance history;
- Greater scrutiny of any permit applications submitted by Overton;
- 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 against Overton;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Overton; and
- TCEQ seeking other relief as authorized by law.

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



Signature

10-21-09

Date

BJ Potts

Name (Printed or typed)
Authorized representative of
the City of Overton

City Manager
Title