

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

DOCKET NO.: 2009-1465-PWS-E TCEQ ID: RN101217917 CASE NO.: 38214

**RESPONDENT NAME: City of Bryan**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Bryan, located 1.5 miles west of Farm-to-Market Road 1687 and Farm-to-Market Road 2818, Bryan, Brazos County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 1, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Mark Conlee, Mayor, City of Bryan, P.O. Box 1000, Bryan, Texas 77805                      Mr. Jayson Barfknecht, Water Services Director, City of Bryan, P.O. Box 1000, Bryan, Texas 77805  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 21, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 10, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to provide Facility records for review at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)(B)(v)].</p> <p>2) Failure to install a backflow prevention assembly or an air gap at all residences or establishments where actual or potential contamination hazards exist [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].</p> <p>3) Failure to provide an intruder-resistant fence or lockable building in order to protect the wells, ground storage tanks and service pumps [30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e)].</p> <p>4) Failure to provide a concrete sealing block that extends at least three feet in all directions from the well casing [30 TEX. ADMIN. CODE § 290.41(c)(3)(J)].</p> <p>5) Failure to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m)].</p> <p>6) Failure to ensure that all aerators and all other such openings are screened with a 16-mesh or finer corrosion resistant screen [30 TEX. ADMIN. CODE § 290.42(b)(2)(C)].</p>	<p><b>Total Assessed:</b> \$4,341</p> <p><b>Total Deferred:</b> \$868  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,473</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By June 1, 2009, provided records showing that flow meters were installed on Well Nos. 6 and 8, and provided the National Sanitation Foundation standards certification for the calcium hypochlorite;</p> <p>b. By June 1, 2009, provided documentation that the Facility has an internal cross-connection program in effect and provided a customer service inspection certificate for the two veterinarian clinics;</p> <p>c. By June 1, 2009, submitted photographs demonstrating that the overflows for the elevated storage tanks at Royal Street and North Texas Avenue terminate above the surface of the ground and are not subject to submergence;</p> <p>d. By June 1, 2009, submitted photographs that show the Main Street below ground storage tank has been repaired;</p> <p>e. By June 1, 2009, posted an ownership sign at the Luza elevated storage tank site;</p> <p>f. By June 1, 2009, repaired the fences to render them intruder-resistant around Well Nos. 7, 14, and 17, and removed the brush and vines around the fence area at Well Nos. 10 and 12;</p> <p>g. On September 18, 2009, replaced the concrete sealing block at Well No. 14 so that it extends at least 3 feet from the well casing in all directions; and</p> <p>h. On October 2, 2009, relocated and repaired the fence around the high level pump station to render it intruder-resistant.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, maintain the general</p>

<p>7) Failure to ensure that the discharge opening of the ground storage tank overflow terminates above the surface of the ground and is not subject to submergence [30 TEX. ADMIN. CODE § 290.43(c)(3)].</p> <p>8) Failure to ensure that all water storage tanks are thoroughly tight against leakage [30 TEX. ADMIN. CODE § 290.43(c)(6)].</p> <p>9) Failure to post a legible sign at each production, treatment and storage facility that contains the name of the water supply and emergency telephone numbers where a responsible official can be contacted [30 TEX. ADMIN. CODE § 290.46(t)].</p>		<p>appearance of all facilities including, but not limited to, relocating the fences at the Royal Street elevated storage tank and the Luza Street storage tank to ensure that brush and vines are not growing through the fence;</p> <p>b. Within 45 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. Within 60 days after the effective date of this Agreed Order, ensure that all aerators and all other such openings are screened with a 16-mesh or finer corrosion resistant screen including, but not limited to, providing a 16-mesh or finer corrosion resistant screen on the opening of the fans of the cooling towers; and</p> <p>d. 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 c.</p>
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Additional ID No(s): 210001





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	17-Aug-2009	<b>Screening</b>	18-Aug-2009	<b>EPA Due</b>	
	<b>PCW</b>	8-Sep-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Bryan
<b>Reg. Ent. Ref. No.</b>	RN101217917
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38214	<b>No. of Violations</b>	9
<b>Docket No.</b>	2009-1465-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Henry
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,410
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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.

<b>Compliance History</b>	10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$441
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**Notes** Enhancement is due to two Notices of Violation ("NOVs") that contain violations that are the same or similar to those in the current enforcement action.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$551
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$4,678  
 Approx. Cost of Compliance \$97,225  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$4,300
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,341
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$868
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$3,473
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Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator: Amanda Henry

### 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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 10%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to two Notices of Violation ("NOVs") that contain violations that are the same or similar to those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 18-Aug-2009

Docket No. 2009-1485-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.46(f)(2) and 290.46(f)(3)(B)(v)

Violation Description

Failed to provide Facility records for review at the time of the investigation. Specifically, at the time of the investigation, it was documented that the following records were not made available upon request: calibration records for the flow meter at Well Nos. 6 and 8 and the National Sanitation Foundation standards certification for the calcium hypochlorite.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
Less than 30% of the rule requirement was not met.				X	1%

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 11 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	X	

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDRP/ Settlement Offer \$2

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent achieved compliance on June 1, 2009.

Violation Subtotal \$8

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9

This violation Final Assessed Penalty (adjusted for limits) \$50

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$100	21-May-2009	1-Jun-2009	0.03	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount necessary to ensure that all Facility records are kept on file and made available for review upon request, calculated from the date of the investigation to the date of compliance.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(1)(A)

Violation Description

Failed to install a backflow prevention assembly or an air gap at all residences or establishments where actual or potential contamination hazards exist. Specifically, at the time of the investigation, it was documented that there was not a backflow prevention assembly or air gap installed at the A.A.A. Animal Clinic or the Kingdome Animal Hospital.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					50%
Potential	x				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to have a backflow prevention assembly or air gap installed could allow significant amounts of contaminants to enter the Facility which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 2 11 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

Two monthly events are recommended (one event per site requiring a backflow prevention assembly) calculated from the date of the investigation, May 21, 2009, to the compliance date, June 1, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent achieved compliance on June 1, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$850

This violation Final Assessed Penalty (adjusted for limits) \$850

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description 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)	\$200	21-May-2009	1-Jun-2009	0.03	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs includes the amount to conduct a customer service inspection certification at the two veterinarian clinics, calculated from the date of the investigation to the 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

\$0

Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 290.41(c)(3)(O) and 290.43(e)

Violation Description

Failed to provide an intruder-resistant fence or lockable building in order to protect the wells, ground storage tanks and service pumps. Specifically, at the time of the investigation, it was documented that the fence around Well No. 14 had a ten inch gap between the bottom of the fence and the ground; the fence around Well No. 17 measured only five feet three inches in height; the fence around Well No. 7 had a 12 inch gap between the bottom of the fence and the ground; and the fence around the High Service Pump Station had a broken strand of barbed wire and excessive brush growing through the fence.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide an intruder-resistant fence for the Facility may allow persons to enter and vandalize the equipment which may compromise the Facility's ability to provide a safe and adequate water supply and could expose customers 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 4

11 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$400

Four single events (one for each location) are recommended.

Good Faith Efforts to Comply

10.0% Reduction Before NOV NOV to EDRFP/Settlement Offer

\$40

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent achieved compliance on October 2, 2009.

Violation Subtotal \$360

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$492

Violation Final Penalty Total \$400

This violation Final Assessed Penalty (adjusted for limits) \$400

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**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
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No commas or \$

**Delayed Costs**

Equipment	\$19,052	21-May-2009	2-Oct-2009	0.37	\$23	\$466	\$490
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	21-May-2009	1-Jun-2009	0.03	\$0	\$2	\$2
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 includes the actual amount (\$19,052) to relocate the fence and remove the excessive brush at the High Service Pump Station, calculated from the date of the investigation to the date of compliance. The delayed costs include the estimated amount to repair the fence around Well Nos. 7, 14, and 17, calculated from the investigation date to the 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

\$20,052

TOTAL

\$492

Screening Date 18-Aug-2009

Docket No. 2009-1485-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(J)

Violation Description

Failed to provide a concrete sealing block that extends at least three feet in all directions from the well casing. Specifically, at the time of the investigation, it was documented that the concrete sealing block for Well No. 14 only extends one foot four inches from the well casing.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			x	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Failure to provide an adequate concrete sealing block could allow contaminants to enter the well and expose the water supply to an insignificant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 89

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary		x
N/A	(mark with x)	

Notes The Respondent achieved compliance on September 18, 2009

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Estimated EB Amount \$6

Statutory Limit Test

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$250	21-May-2009	18-Sep-2009	0.33	\$0	\$5	\$6
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 necessary to extend the size of the concrete sealing block around the well casing, calculated from the date of the investigation to the 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

\$250

**TOTAL**

\$6

Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)

Violation Description

Failed to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and appearance of the Facility and its equipment. Specifically, at the time of the investigation, it was documented that excessive brush, vines, and trees were growing through the fences at Well Nos. 10 and 12, the Royal Street elevated storage tank, and the Luza Street elevated storage tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			x	

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
Failure to initiate good housekeeping practices could result in customers of the Facility being exposed to insignificant amounts of contaminants which would not exceed levels that are protective of human health.				0%

Adjustment \$900

\$100

Violation Events

Number of Violation Events 4 Number of violation days 89

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$400

Four single events (one for each location) are recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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

Violation Subtotal \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,053

Violation Final Penalty Total \$440

This violation Final Assessed Penalty (adjusted for limits) \$440

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$500	21-May-2009	1-Jun-2009	0.03	\$0	\$1	\$1
Engineering/construction	\$19,323	21-May-2009	1-Mar-2010	0.78	\$50	\$1,002	\$1,052
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 relocate the fence at the Royal Street elevated storage tank and the Luza Street storage tank. The delayed costs include the estimated amount to remove the brush, vines from the fences at Well Nos. 10 and 12, calculated from the investigation date to the 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

\$18,823

TOTAL

\$1,053

Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 290.42(b)(2)(C)

Violation Description

Failed to ensure that all aerators and all other such openings are screened with a 16-mesh or finer corrosion resistant screen. Specifically, at the time of the investigation, it was documented that the fans of the cooling towers were not screened with a 16-mesh or finer corrosion-resistant screen.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

Matrix Notes

Failing to screen aerators and other such openings may expose the water entering the storage tanks to dust, insects or other significant amounts of contaminants that would not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 6 89 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
single event		

Violation Base Penalty \$1,500

Six quarterly events (one event for each cooling tower) are recommended, calculated from the date of the investigation, May 21, 2009, to the screening date, August 18, 2009

Good Faith Efforts to Comply

	0.0%	Reduction	
		Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary			
Ordinary			
N/A	X		(mark with x)

\$0

Notes

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,323

Violation Final Penalty Total \$1,650

This violation Final Assessed Penalty (adjusted for limits) \$1,650

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 6

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction	\$55,000	21-May-2009	1-Apr-2010	0.86	\$158	\$3,164
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 install screens over the fans of the cooling towers. The date required is the date of the investigation. 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**    \$55,000    **TOTAL**    \$3,323

Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(3)

Violation Description

Failed to ensure that the discharge opening of the ground storage tank overflow terminates above the surface of the ground and is not subject to submergence. Specifically, at the time of the investigation, it was documented that the overflows on the Royal Street and North Texas Avenue elevated storage tanks terminate at points below ground level.

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%

Matrix Notes

If the overflow does not terminate properly and is subject to submergence, the tank will not be protected from overpressure and overload when the tank is filled to capacity, exposing the water supply to a significant amount of pollutants which would not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

		2	11	Number of violation days	
mark only one with an x	daily				Violation Base Penalty \$500
	weekly				
	monthly				
	quarterly		x		
	semiannual				
	annual				
	single event				

Two quarterly events are recommended, based on one quarterly event for each overflow, calculated from the date of the investigation, May 21, 2009, to the compliance date, June 1, 2009.

Good Faith Efforts to Comply

	25.0% Reduction	\$125
	Before NOV	NOV to EDR/PP/ Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)
Notes	The Respondent achieved compliance on June 1, 2009.	

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$425

This violation Final Assessed Penalty (adjusted for limits) \$425

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 7

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction	\$1,000	21-May-2009	1-Jun-2009	0.03	\$0	\$2
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 modify the overflows on the storage tanks, calculated from the date of the investigation to the 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**      \$1,000      **TOTAL**      \$2

Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(6)

Violation Description

Failed to ensure that all water storage tanks are thoroughly tight against leakage. Specifically, at the time of the investigation, it was documented that the Main Street below ground storage tank has several leaks in the side of the tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to maintain the Facility's storage tanks in a water-tight condition could expose the customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

	1	11	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
single event			

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the investigation date, May 21, 2009, to the compliance date, June 1, 2009.

Good Faith Efforts to Comply

	25.0%	Reduction
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

\$82

Notes

The Respondent achieved compliance on June 1, 2009.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$213

This violation Final Assessed Penalty (adjusted for limits) \$213

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 8

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	OneTime Costs	EB Amount
Equipment	\$500	21-May-2009	1-Jun-2009	0.03	\$0	\$1	\$1
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 estimated amount necessary to repair the multiple leaks at the Main Street below the ground storage tank. The date required is the investigation date. The final date is the date of compliance.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	OneTime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$600

**TOTAL**

\$1

Screening Date 18-Aug-2009

Docket No. 2009-1465-PWS-E

PCW

Respondent City of Bryan

Policy Revision 2 (September 2002)

Case ID No. 38214

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101217917

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 9

Rule Cite(s)

30 Tex. Admin. Code § 290.46(t)

Violation Description

Failed to post a legible sign at each production, treatment and storage facility that contains the name of the water supply and emergency telephone numbers where a responsible official can be contacted. Specifically, at the time of the investigation, it was documented that the Facility did not have a sign posted at the Luza elevated storage tank site.

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	Harm			Percent
		Major	Moderate	Minor	
		X			25%
100% of the rule requirement was not met.					

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 11

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes The Respondent achieved compliance on June 1, 2009.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$213

This violation Final Assessed Penalty (adjusted for limits) \$213

# Economic Benefit Worksheet

**Respondent** City of Bryan  
**Case ID No.** 38214  
**Reg. Ent. Reference No.** RN101217917  
**Media** Public Water Supply  
**Violation No.** 9

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	21-May-2009	1-Jun-2009	0.03	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to post proper signs at the Luza elevated tank site, calculated from the date of the investigation to the 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**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600373310 City of Bryan Classification: Average Rating: 1.91  
Regulated Entity: RN101217917 CITY OF BRYAN Classification: Average Site Rating: 3.00

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0210001  
AIR NEW SOURCE PERMITS PERMIT 14147  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER BM0057F  
AIR NEW SOURCE PERMITS AFS NUM 4804100026  
WATER LICENSING LICENSE 0210001

Location: 1.5 MI W OF @FM 1687 & FM 2818, Bryan, Brazos County, TX

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: August 18, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 18, 2004 to August 18, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Amanda Henry Phone: 713-767-3872

## 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 judgements, 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 | 07/12/2007 | (564095) |
| 2 | 09/13/2007 | (593364) |
| 3 | 12/07/2007 | (608996) |
| 4 | 08/09/2009 | (745303) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/14/2007 (564095) CN600373310  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain the water treatment unit in a watertight condition.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure to maintain the storage and pressure maintenance facilities in a watertight condition.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)  
 Description: Failure to provide an intruder-resistant fence in order to protect the elevated tank.

Date: 07/27/2007 (564095) CN600373310

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
 Description: Failure to have a sanitary easement for wells No. 11, No. 12, No. 13, and No. 14. On May 19, 2003 the TCEQ granted an exception to this requirement for wells No. 10, No 15, No. 16, and No. 17.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)  
 Description: Failure to plug all abandoned wells.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
 Description: Failure to provide an intruder-resistant fence in order to protect the well.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(vi)  
 Description: Failure to maintain backflow assembly test reports on file.

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 THE  
CITY OF BRYAN  
RN101217917**

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

## **AGREED ORDER DOCKET NO. 2009-1465-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 the City of Bryan ("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 public water supply 1.5 miles west of Farm-to-Market Road 1687 and Farm-to-Market Road 2818 in Bryan, Brazos County, Texas (the "Facility") that has approximately 21,254 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 August 15, 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 Four Thousand Three Hundred Forty-One Dollars (\$4,341) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Three Thousand Four Hundred Seventy-Three Dollars (\$3,473) of the administrative penalty and Eight Hundred Sixty-Eight Dollars (\$868) 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 recognizes the City has implemented the following corrective measures at the Facility:
    - a. By June 1, 2009, provided records showing that flow meters were installed on Well Nos. 6 and 8; and provided the National Sanitation Foundation standards certification for the calcium hypochlorite;
    - b. By June 1, 2009, provided documentation that the Facility has an internal cross-connection program in effect and provided a customer service inspection certificate for the two veterinarian clinics;
    - c. By June 1, 2009, submitted photographs demonstrating that the overflows for the elevated storage tanks at Royal Street and North Texas Avenue terminate above the surface of the ground and are not subject to submergence;
    - d. By June 1, 2009, submitted photographs that show the Main Street below ground storage tank has been repaired;
    - e. By June 1, 2009, posted an ownership sign at the Luza elevated storage tank site;
    - f. By June 1, 2009, repaired the fences to render them intruder-resistant around Well Nos. 7, 14, and 17, and removed the brush and vines around the fence area at Well Nos. 10 and 12;
    - g. On September 18, 2009, replaced the concrete sealing block at Well No. 14 so that it extends at least 3 feet from the well casing in all directions; and
    - h. On October 2, 2009, relocated and repaired the fence around the high level pump station to render it intruder-resistant.
  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 the City 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

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

1. Failed to provide Facility records for review at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)(B)(v), as documented during an investigation conducted on May 21, 2009.
2. Failed to install a backflow prevention assembly or an air gap at all residences or establishments where actual or potential contamination hazards exist, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A), as documented during an investigation conducted on May 21, 2009.
3. Failed to provide an intruder-resistant fence or lockable building in order to protect the wells, ground storage tanks and service pumps, in violation of 30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e), as documented during an investigation conducted on May 21, 2009.
4. Failed to provide a concrete sealing block that extends at least three feet in all directions from the well casing, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(J), as documented during an investigation conducted on May 21, 2009.
5. Failed to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m), as documented during an investigation conducted on May 21, 2009.
6. Failed to ensure that all aerators and all other such openings are screened with a 16-mesh or finer corrosion resistant screen, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(2)(C), as documented during an investigation conducted on May 21, 2009.
7. Failed to ensure that the discharge opening of the ground storage tank overflow terminates above the surface of the ground and is not subject to submergence, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3), as documented during an investigation conducted on May 21, 2009.
8. Failed to ensure that all water storage tanks are thoroughly tight against leakage, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(6), as documented during an investigation conducted on May 21, 2009.
9. Failed to post a legible sign at each production, treatment and storage facility that contains the name of the water supply and emergency telephone numbers where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t), as documented during an investigation conducted on May 21, 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 Bryan, Docket No. 2009-1465-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 30 days after the effective date of this Agreed Order, maintain the general appearance of all facilities including but not limited to relocating the fences at the Royal Street elevated storage tank and the Luza Street storage tank to ensure that brush and vines are not growing through the fence, in accordance with 30 TEX. ADMIN. CODE § 290.46;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification, as detailed in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
  - c. Within 60 days after the effective date of this Agreed Order, ensure that all aerators and all other such openings are screened with a 16-mesh or finer corrosion resistant screen, including but not limited to, providing a 16-mesh or finer corrosion resistant screen on the opening of the fans of the cooling towers, in accordance with 30 TEX. ADMIN. CODE § 290.42.
  - d. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. 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  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

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 Swellin  
For the Executive Director

2/8/2010  
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.

Jayson Barsknecht  
Signature

11/17/2009  
Date

Jayson Barsknecht  
Name (Printed or typed)  
Authorized Representative of  
City of Bryan

Water Services Director  
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.