

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1734-PWS-E **TCEQ ID:** RN101220085 **CASE NO.:** 38592
RESPONDENT NAME: City of Austin

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Austin Water & Wastewater, located approximately 1.75 miles north of United States Highway 290 East and 0.75 mile west of the intersection of Giles Road and Boyce Lane, Travis County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 1, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney/SEP Coordinator: None</p> <p>TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 1, MC R-13, (210) 403-4012; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495</p> <p>Respondent: The Honorable Lee Leffingwell, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78701 Mr. Greg Meszaros, Director, Water Utilities, City of Austin, P.O. Box 1088, Austin, Texas 78701</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 18, 2009</p> <p>Date of NOV/NOE Relating to this Case: September 22, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to operate the Facility to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions [30 TEX. ADMIN. CODE § 290.46(r)].</p>	<p>Total Assessed: \$570</p> <p>Total Deferred: \$114 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$456</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order, begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. The system shall also be operated to maintain a minimum pressure of 20 psi during emergencies such as fire fighting; and</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS 2270001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Sep-2009	Screening	20-Oct-2009	EPA Due	
	PCW	20-Oct-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Austin	
Reg. Ent. Ref. No.	RN101220085	
Facility/Site Region	11-Austin	Major/Minor Source
		Major

CASE INFORMATION

Enf./Case ID No.	38592	No. of Violations	1
Docket No.	2009-1734-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 14.0% Enhancement Subtotals 2, 3, & 7 **\$70**

Notes: Enhancement is due to two NOV's with the same or similar violations and two NOV's with dissimilar violations as those in the current enforcement action.

Culpability No 0.0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$0**

Economic Benefit 0.0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts \$216,035
Approx. Cost of Compliance \$2,166,285
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$570**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$570**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$570**

DEFERRAL 20.0% Reduction Adjustment **-\$114**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$456**

Screening Date 20-Oct-2009

Docket No. 2009-1734-PWS-E

PCW

Respondent City of Austin

Policy Revision 2 (September 2002)

Case ID No. 38592

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101220085

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	2	4%
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 judgments 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) 14%

>> 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 NOVs with the same or similar violations and two NOVs with dissimilar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

Screening Date 20-Oct-2009

Docket No. 2009-1734-PWS-E

PCW

Respondent City of Austin

Policy Revision 2 (September 2002)

Case ID No. 38592

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101220085

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 290.46(r)

Violation Description

Failed to operate the Facility to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions. Specifically, at the time of the record review, a review of data from a pressure recorder submitted by the Respondent revealed multiple pressure readings measured between 25 to 35 psi along Jacobson Road on November 22, 2008 and November 25, 2008.

Base Penalty

\$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent

25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

0%

Matrix Notes

Inadequate pressure throughout the distribution system could result in water outages and backflow problems that could expose customers to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment

\$750

\$250

Violation Events

Number of Violation Events

2

329

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty

\$500

Two single events are recommended, one for each day pressure readings were below 35 psi.

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

\$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$216,035

Violation Final Penalty Total

\$570

This violation Final Assessed Penalty (adjusted for limits)

\$570

Economic Benefit Worksheet

Respondent City of Austin
Case ID No. 38592
Reg. Ent. Reference No. RN101220085
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,166,285	22-Nov-2008	26-Apr-2010	1.42	\$10,287	\$206,748	\$216,035
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 to install and replace distribution lines to address the inadequate pressure throughout the distribution system; calculated from the date the pressure dropped below 35 psi to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,166,285

TOTAL

\$216,035

Compliance History Report

Customer/Respondent/Owner-Operator: CN600135198 City of Austin Classification: AVERAGE Rating: 3.01
Regulated Entity: RN101220085 CITY OF AUSTIN WATER & WASTEWATER Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2270001

Location: APPROXIMATELY 1.75 MILES NORTH OF US HIGHWAY
290 EAST AND .75 MILE WEST OF THE INTERSECTION OF
GILES ROAD AND BOYCE LANE IN TRAVIS COUNTY

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: October 19, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 19, 2004 to October 19, 2009

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

Name: Christopher Keffer Phone: 239 - 1000

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
- 6.

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 | 11/18/2004 | (341410) |
| N/A | 2 | 03/03/2005 | (372412) |
| | 3 | 08/25/2006 | (509134) |
| | 4 | 08/27/2007 | (570720) |
| | 5 | 03/04/2008 | (637812) |
| | 6 | 05/09/2008 | (654207) |
| | 7 | 09/23/2009 | (776724) |
| | 8 | 09/24/2009 | (776738) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/22/2004 (341410) CN600135198
N/A Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
Description: Failure to provide facility signs that include appropriate emergency contact telephone numbers.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(i)
Description: The system was not utilizing a lubricating oil which conforms to NSF 61.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to provide an adequate overflow.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain filter effluent/backwash control valves.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to maintain overflow covers.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain the North Austin Pump Station Reservoir.

Date: 12/06/2006 (531690) CN600135198
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to maintain a minimum pressure of 35 psi throughout the distribution system.

Date: 08/28/2007 (570720) CN600135198
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to prevent the ponding of water on the roof of the Spicewood Springs storage tank.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to protect the overflow on the Anderson Mill elevated tank from possible submergence.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
30 TAC Chapter 290, SubChapter D 290.46(m)(6)
Description: Failure to properly maintain the service pumps.

Date: 12/19/2008 (721483) CN600135198
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to maintain a minimum pressure of 35 psi throughout the distribution system.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
30 TAC Chapter 290, SubChapter D 290.46(g)
Description: Failure to provide documentation showing that new and repaired lines are properly disinfected and flushed according to American Water Works Association (AWWA) standards.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(g)
Description: Failure to collect samples for microbiological analysis prior to returning new or repaired lines to service.

- 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 AUSTIN
RN101220085

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1734-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 Austin ("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 approximately 1.75 miles north of United States Highway 290 East and 0.75 mile west of the intersection of Giles Road and Boyce Lane in Travis County, Texas (the "Facility") that has approximately 203,059 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 September 27, 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 Five Hundred Seventy Dollars (\$570) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Four Hundred Fifty-Six Dollars (\$456) of the administrative penalty and One Hundred Fourteen Dollars (\$114) is deferred contingent upon the City's timely and satisfactory compliance

with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

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

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to operate the Facility to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions, in violation of 30 TEX. ADMIN. CODE § 290.46(r), as documented during a record review conducted on September 18, 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 Austin, Docket No. 2009-1734-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 180 days after the effective date of this Agreed Order, begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. The system shall also be operated to maintain a minimum pressure of 20 psi during emergencies such as fire fighting, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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.

City of Austin
DOCKET NO. 2009-1734-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolner
For the Executive Director

3/9/2010
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.

Perwez Moheet
Signature

2/23/2010
Date

PERWEZ MOHEET
Name (Printed or typed)
Authorized Representative of
City of Austin

DEPUTY 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 I of this Agreed Order.

