

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-1965-PWS-E TCEQ ID: RN101455269 CASE NO.: 38772
RESPONDENT NAME: Milano Water Supply Corporation

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: Milano WSC, 6 Farm-to-Market Road 3242, Milano, Milam 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 BD and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 5, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Eldon Ball, Board President, Milano Water Supply Corporation, 212 Farm-to-Market Road 3242, Milano, Texas 76556 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input 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 17, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 30, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v)].</p> <p>2) Failure to inspect the interior of the pressure tanks at least once every five years [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].</p> <p>3) Failure to provide a flow measuring device for well nos. 1 and 2 [30 TEX. ADMIN. CODE § 290.41(e)(3)(N)].</p> <p>4) Failure to ensure the good working condition and general appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m)].</p> <p>5) Failure to ensure that the stand pipe at plant no. 5 is protected from intruder access with a lockable building or intruder-resistant fence [30 TEX. ADMIN. CODE § 290.43(e)].</p> <p>6) Failure to ensure that 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>7) Failure to provide two or more pumps that have a total capacity of 2.0 gpm per</p>	<p>Total Assessed: \$6,288</p> <p>Total Deferred: \$1,257 <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: \$5,031</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On September 18, 2009, installed flow measuring devices at well nos. 1 and 2.</p> <p>b. As of September 24, 2009, inspected the interior of the Facility's two pressure tanks.</p> <p>c. As of September 25, 2009:</p> <p>i. Removed all brush, vines and trees growing through the fences at plant nos. 1, 5, and 6; and</p> <p>ii. Repaired the gate and the barbed wire at the top of the fence that surrounds the stand pipe at plant no. 5.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Provide emergency power that will enable the Facility to deliver water at a rate of 0.35 gpm per connection in the event of the loss of normal power supply; and</p> <p>ii. Screen the openings on the cooling towers at plant nos. 2 and 4 with a 16-mesh or finer, corrosion-resistant screen.</p> <p>b. Within 105 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 365 days after the effective date of this Agreed Order:</p> <p>i. Provide two or more pumps that have a minimum service pump capacity of 2.0 gpm per connection in pressure planes 1 and 2;</p> <p>ii. Provide a total pressure tank capacity of</p>

<p>connection in pressure planes 1 and 2 [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>8) Failure to provide a total pressure tank capacity of 20 gallons per connection in pressure plane 2 [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>9) Failure to provide a total storage capacity of 200 gallons per connection in pressure plane 2 [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>		<p>20 gallons per connection in pressure plane 2; and</p> <p>iii. Provide a total storage capacity of 200 gallons per connection in pressure plane 2.</p> <p>d. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.</p>
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Additional ID No(s): PWS ID No. 1660009



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ DATES	Assigned	2-Nov-2009	Screening	16-Nov-2009	EPA Due	
	PCW	30-Nov-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Milano Water Supply Corporation		
Reg. Ent. Ref. No.	RN101455269		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38772	No. of Violations	9
Docket No.	2009-1965-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit 0.0% Enhancement* Subtotal 6

Total EB Amounts	\$56,328
Approx. Cost of Compliance	\$659,198

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455269

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)	0	0%
	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 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%

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) 0%

>> 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

No penalty adjustment is recommended due to the compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 16-Nov-2009

Docket No. 2009-1985-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(v)

Violation Description Failed to provide emergency power that will deliver water at a rate which will enable the Facility to provide a minimum of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply. Specifically, at the time of the investigation, it was documented that the Respondent failed to provide an emergency power source such as a back-up generator, which is required for facilities that have no elevated storage and that have 250 or more service connections.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Without any emergency power, customers of the Facility could experience water outages and the Facility's ability to provide a safe and reliable water supply could be compromised.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 2 60 Number of violation days

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

Violation Base Penalty \$1,000

Two monthly events are recommended, calculated from the date of the investigation, September 17, 2009, to the date of case screening, November 16, 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 \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$3,405

Statutory Limit Test

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101465269
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	\$51,013	17-Sep-2009	31-Aug-2010	0.95	\$162	\$3,242	\$3,405
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 actual amount to purchase and install a generator to provide emergency power to the Facility, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$51,013

TOTAL

\$3,405

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)(1)(B)

Violation Description

Failed to inspect the interior of the pressure tanks at least once every five years. Specifically, the interior of the 5,000 gallon pressure tank at plant no. 2 and the interior of the 2,500 gallon pressure tank at plant no. 6 had not been inspected in the five years preceding the September 17, 2009 investigation.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to inspect the interior of the pressure tank could result in non-detection of a tank defect which could cause customers of the Facility to be exposed to significant amounts of contaminants, which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 2 Number of violation days 7

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

Violation Base Penalty \$1,000

Two single events are recommended (one event per tank).

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$250

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance with this violation as of September 24, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$389

Violation Final Penalty Total \$750

This violation Final Assessed Penalty (adjusted for limits) \$750

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101455269
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$300	17-Sep-2004	17-Sep-2009	5.82	\$89	\$300	\$389
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct inspections of the interior of the Facility's two pressure tanks, calculated for the five years preceeding the date of the investigation.

Approx. Cost of Compliance

\$300

TOTAL

\$389

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description

Failed to provide a flow measuring device for well nos. 1 and 2.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have a flow measuring device for each well could prevent the Facility from making necessary production and usage calculations which could result in improper treatment of the water, exposing customers of the Facility 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

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two quarterly events are recommended (one event per well), calculated from the date of the investigation, September 17, 2009, to the date of compliance, September 18, 2009.

Good Faith Efforts to Comply

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

\$125

Notes

The Respondent achieved compliance with this violation as of September 18, 2009.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$375

This violation Final Assessed Penalty (adjusted for limits) \$375

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101455289
Media Public Water Supply
Violation No. 3

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	\$2,085	17-Sep-2009	18-Sep-2009	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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the actual amount to purchase and install two well meters, 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

\$2,085

TOTAL

\$0

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)

Violation Description

Failed to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, on the date of the investigation, it was noted that the fences at plant nos. 1, 5 and 6 had brush, vines and trees growing through them.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Failure to control the vegetation growth at the Facility could result in customers of the water system 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 3 Number of violation days 8

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

Violation Base Penalty \$300

Three single events are recommended (one event per facility).

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDCRP/Settlement Offer

\$75

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent achieved compliance with this violation as of September 25, 2009.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$225

This violation Final Assessed Penalty (adjusted for limits) \$225

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101455269
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	17-Sep-2009	25-Sep-2009	0.02	\$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 to remove the excess vegetation on the Facility's fences, 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

Screening Date 16-Nov-2009

Docket No. 2009-1985-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.43(e)

Violation Description

Failed to ensure that the stand pipe at plant no. 5 is protected from intruder access with a lockable building or intruder-resistant fence. Specifically, on the date of the investigation, the gate was found to have a large gap and the barbed wire was found to be broken.

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

Failure to maintain an intruder-resistant fence and gate at the Facility could allow vandals to have access to the water supply and customers of the Facility would be exposed 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 1 Number of violation days 8

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 date of the investigation, September 17, 2009, to the date of compliance, September 25, 2009.

Good Faith Efforts to Comply

	25.0% Reduction	\$62
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A	(mark with x)	

Notes

The Respondent achieved compliance with this violation as of September 25, 2009.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$188

This violation Final Assessed Penalty (adjusted for limits) \$188

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101456269
Media Public Water Supply
Violation No. 5

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)	\$500	17-Sep-2009	25-Sep-2009	0.02	\$0	\$1	\$1
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 to repair the fence and gate at plant no. 5, 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

\$500

TOTAL

\$1

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 280.42(b)(2)(C)

Violation Description Failed to ensure that aerators and all other such openings are screened with a 16-mesh or finer corrosion resistant screen. Specifically, on the date of the investigation, it was discovered that the openings on the cooling towers at plant nos. 2 and 4 were not screened.

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

Unscreened openings on the cooling towers could allow dust, bugs, and vermin to enter the water supply and customers of the Facility could be exposed to significant amounts of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$750

\$260

Violation Events

Number of Violation Events 2 Number of violation days 60

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two quarterly events are recommended (one event per facility), calculated from the date of the investigation, September 17, 2009, to the date of case screening, November 16, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/Sellment 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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$451

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101455269
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	17-Sep-2009	31-Dec-2010	1.29	\$21	\$429	\$451
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 to properly screen the openings on the cooling towers, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$451

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 7

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 gallons per minute ("gpm") per connection in pressure planes 1 and 2. Specifically, with 489 connections in pressure plane 1, a total service pump capacity of 987 gpm is required. Pressure plane 1 currently has a total service pump capacity of 400 gpm, which is a 59% deficiency. Additionally, with 586 connections in pressure plane 2, a total service pump capacity of 1,203 gpm is required. Pressure plane 2 currently has a total service pump capacity of 450 gpm, which is a 63% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Without adequate service pump capacity, customers of the water system could experience water shortages or outages exposing them to a significant amount of contaminants, which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

	4	60	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		

Violation Base Penalty \$2,000

Four monthly events are recommended (two monthly events per pressure plane), calculated from the date of the investigation, September 17, 2009, to the date of case screening, November 16, 2009.

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$40,562

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101465269
Media Public Water Supply
Violation No. 7

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	\$450,000	17-Sep-2009	31-Dec-2010	1.29	\$1,932	\$38,630	\$40,562
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 engineer and drill an additional well to supply the water system, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$450,000

TOTAL

\$40,562

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101455289

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a total pressure tank capacity of 20 gallons per connection in pressure plane 2. Specifically, with 586 connections, pressure-plane 2 should have a total minimum pressure tank capacity of 11,720 gallons. Currently, 5,000 total gallons of pressure tank capacity is provided, which is a 57% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Without sufficient pressure tank capacity, the Facility could experience insufficient pressure and siphonage, resulting in customers of the water system being exposed to significant amounts of contaminants, which would exceed levels that are protective of human health.

Adjustment \$500

\$600

Violation Events

2 60 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, calculated from the date of the investigation, September 17, 2009, to the date of case screening, November 16, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,507

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Milano Water Supply Corporation
Case ID No. 38772
Reg. Ent. Reference No. RN101455269
Media Public Water Supply
Violation No. 8

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)	\$50,000	17-Sep-2009	31-Dec-2010	1.29	\$215	\$4,292	\$4,507
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 to engineer, purchase and install additional pressure tank capacity for pressure plane 2, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$4,507

Screening Date 16-Nov-2009

Docket No. 2009-1965-PWS-E

PCW

Respondent Milano Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38772

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101455269

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a total storage capacity of 200 gallons per connection in pressure plane 2. Specifically, with 586 connections, 117,200 gallons of total storage should be provided. Currently, 100,000 total gallons of storage is provided, which is a 15% deficiency.

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 have adequate total storage could result in water shortages or outages, causing customers of the Facility to be exposed 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 1 Number of violation days 60

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the date of the investigation, September 17, 2009, to the date of case screening, November 16, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark w/ th 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 \$9,014

Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

Economic Benefit Worksheet

Respondent: Milano Water Supply Corporation
Case ID No.: 38772
Reg. Ent. Reference No.: RN101455269
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$100,000	17-Sep-2009	31-Dec-2010	1.29	\$429	\$8,584	\$9,014
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 add additional total storage capacity in pressure plane 2, calculated from the date of the investigation to the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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: \$100,000
TOTAL \$9,014

Compliance History Report

Customer/Respondent/Owner-Operator: CN800665053 Milano WSC Classification: Rating:
Regulated Entity: RN101455269 MILANO WSC Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1660009
WATER LICENSING LICENSE 1660009
Location: 6 FM 3242, Milano, Milam County, TX
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: November 23, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 23, 2004 to November 23, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If yes, who is the current owner/operator? N/A
4. If yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 02/14/2005 (343229)
2 10/29/2009 (775818)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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
MILANO WATER SUPPLY
CORPORATION
RN101455269**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1965-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 Milano Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 6 Farm-to-Market Road 3242 in Milano, Milam County, Texas (the "Facility") that has approximately 1,462 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 4, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Six Thousand Two Hundred Eighty-Eight Dollars (\$6,288) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Thirty-One Dollars (\$5,031) of the administrative penalty and One Thousand Two Hundred Fifty-Seven Dollars (\$1,257) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 Respondent 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 that the Respondent has implemented the following corrective measures at the Facility:
 - a. On September 18, 2009, installed flow measuring devices at well nos. 1 and 2;
 - b. As of September 24, 2009, inspected the interior of the Facility's two pressure tanks; and
 - c. As of September 25, 2009:
 - i. Removed all brush, vines and trees growing through the fences at plant nos. 1, 5, and 6; and
 - ii. Repaired the gate and the barbed wire at the top of the fence that surrounds the stand pipe at plant no. 5.
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 Respondent 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 Respondent is alleged to have:

1. Failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v), as documented during an investigation conducted on September 17, 2009.
2. Failed to inspect the interior of the pressure tanks at least once every five years, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B), as documented during an investigation conducted on September 17, 2009.
3. Failed to provide a flow measuring device for well nos. 1 and 2, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on September 17, 2009.

4. Failed to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m), as documented during an investigation conducted on September 17, 2009.
5. Failed to ensure that the stand pipe at plant no. 5 is protected from intruder access with a lockable building or intruder-resistant fence, in violation of 30 TEX. ADMIN. CODE § 290.43(e), as documented during an investigation conducted on September 17, 2009.
6. Failed to ensure that 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 September 17, 2009.
7. Failed to provide two or more pumps that have a total capacity of 2.0 gpm per connection in pressure planes 1 and 2, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on September 17, 2009.
8. Failed to provide a total pressure tank capacity of 20 gallons per connection in pressure plane 2, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on September 17, 2009.
9. Failed to provide a total storage capacity of 200 gallons per connection in pressure plane 2, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on September 17, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent'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: Milano Water Supply Corporation, Docket No. 2009-1965-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 Respondent shall undertake the following technical requirements:

- a. Within 90 days after the effective date of this Agreed Order:
 - i. Provide emergency power that will enable the Facility to deliver water at a rate of 0.35 gpm per connection in the event of the loss of normal power supply, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Screen the openings on the cooling towers at plant nos. 2 and 4 with a 16-mesh or finer, corrosion-resistant screen, in accordance with 30 TEX. ADMIN. CODE § 290.42.
- b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.c below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.
- c. Within 365 days after the effective date of this Agreed Order:
 - i. Provide two or more pumps that have a minimum service pump capacity of 2.0 gpm per connection in pressure planes 1 and 2, in accordance with 30 TEX. ADMIN. CODE § 290.45;
 - ii. Provide a total pressure tank capacity of 20 gallons per connection in pressure plane 2, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - iii. Provide a total storage capacity of 200 gallons per connection in pressure plane 2, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- d. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 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 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
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 Respondent. The Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 Respondent 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 Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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 Szolner
For the Executive Director

3/30/2010
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.

Eldon Ball
Signature

JANUARY 29, 2010
Date

ELDON BALL
Name (Printed or typed)
Authorized Representative of
Milano Water Supply Corporation

BOARD PRESIDENT
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.