

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2009-2082-PWS-E **TCEQ ID:** RN101457455 **CASE NO.:** 38897  
**RESPONDENT NAME:** Leverett's Chapel Water Supply Corporation

<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> Leverett's Chapel WSC, 8816 State Highway 42 North, near Overton, Rusk County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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 BD 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 May 24, 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. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Gary Hunt, President, Leverett's Chapel Water Supply Corporation, Rural Route 2 Box 20AA, Overton, Texas 75684  <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> September 29, 2009</p> <p><b>Date of NOE Relating to this Case:</b> November 24, 2009</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to design the overflow on the ground storage tank in strict accordance with current American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(e)(3)].</p> <p>2) Failure to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv)].</p>	<p><b>Total Assessed:</b> \$952</p> <p><b>Total Deferred:</b> \$190  <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> \$762</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, provide the elevated storage tank with an overflow designed in accordance with AWWA standards, including but not limited to, locating the overflow where it can be inspected from an access ladder or balcony;</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision d, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a;</p> <p>c. Within 180 days after the effective date of this Agreed Order, provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection; and</p> <p>d. 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 c.</p>

Additional ID No(s): PWS ID No. 2010036



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	30-Nov-2009	Screening	11-Dec-2009	EPA Due	
	PCW	23-Dec-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Leverett's Chapel Water Supply Corporation
Reg. Ent. Ref. No.	RN101457455
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38897	No. of Violations	2
Docket No.	2009-2082-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodur
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

Total EB Amounts   
Approx. Cost of Compliance

\*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

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 11-Dec-2009

Docket No. 2009-2082-PWS-E

PCW

Respondent Leverett's Chapel Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38897

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101457455

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
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%
<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) 12%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to two prior Notices of Violation ("NOV") with same or similar violations as those in the current enforcement action, and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 11-Dec-2009

Docket No. 2009-2082-PWS-E

PCW

Respondent Leverett's Chapel Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38897

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101457455

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(3)

Violation Description

Failed to design the overflow on the ground storage tank in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the overflow on the elevated storage tank was not located in an accessible position for inspection.

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	Major	Moderate	Minor	Percent
Failure to make the overflow accessible for inspection could allow defects to go undetected resulting in consumers being exposed to a significant 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 74

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

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the investigation date, September 29, 2009, to the screening date, December 11, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	\$0
	Before NOV	NOV to ED/PRP/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 \$100

Economic Benefit (EB) for this violation

Estimated EB Amount \$21

Statutory Limit Test

Violation Final Penalty Total \$112

This violation Final Assessed Penalty (adjusted for limits) \$112

# Economic Benefit Worksheet

**Respondent** Leverett's Chapel Water Supply Corporation

**Case ID No.** 38897

**Reg. Ent. Reference No.** RN101457455

**Media** Public Water Supply

**Violation No.** 1

<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)				0.00	\$0	\$0	\$0
Engineering/construction	\$300	29-Sep-2009	30-Sep-2010	1.00	\$1	\$20	\$21
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 provide the overflow designed and located in accordance with AWWA standards. The date required is the investigation date. The final date is the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

**TOTAL**

\$21

Screening Date 11-Dec-2009

Docket No. 2009-2082-PWS-E

PCW

Respondent Leverett's Chapel Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38897

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101457455

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(iv)

Violation Description

Failed to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. Based on a review of a topography map of the Facility and the location of the service connections, it was noted that the elevated storage tank volume was not stored at least 80 feet above the highest service connection in the pressure plane served by the storage tank. As a result, the storage tank capacity is zero.

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	Major	Moderate	Minor	Percent
Failure to meet the minimum elevated storage tank capacity of 100 gallons per connection could result in low pressure, outages, and exposure to a significant amount of pollutants which would exceed levels protective of human health.					

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 74

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

Violation Base Penalty \$750

Three monthly events are recommended, calculated from the investigation date, September 29, 2009, to the screening date, December 11, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	\$0
	Before NOV	NOV to EDRP/ 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 \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$4,060

Statutory Limit Test

Violation Final Penalty Total \$840

This violation Final Assessed Penalty (adjusted for limits) \$840

# Economic Benefit Worksheet

**Respondent** Leverett's Chapel Water Supply Corporation  
**Case ID No.** 38897  
**Reg. Ent. Reference No.** RN101457455  
**Media** Public Water Supply  
**Violation No.** 2

<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
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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	\$46,225	29-Sep-2009	31-Dec-2010	1.25	\$193	\$3,867	\$4,060
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount necessary to provide an elevated storage capacity of 100 gallons per connection (\$2.15 per gallon deficient x 21,500 gallons). 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

\$46,225

TOTAL

\$4,060

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600653349 Leverett's Chapel Water Supply Corporation Classification: Rating:

Regulated Entity: RN101457455 LEVERETT'S CHAPEL WSC Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2010036  
 WATER LICENSING LICENSE 2010036

Location: 8816 STATE HIGHWAY 42 NORTH, NEAR OVERTON, RUSK COUNTY, TX

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: December 11, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 11, 2004 to December 11, 2009

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

## 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 04/11/2006 (456253)
- 2 09/14/2007 (593845)
- 3 09/04/2008 (699759)
- 4 10/17/2008 (701554)
- 5 11/23/2009 (781729)

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

~~Date: 04/13/2006 (456253)~~ ~~CN600653349~~

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide for commission review an approved adequate sanitary control easement, ordinance, deed or exception letter.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain intruder resistant fences.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to have a plant operations manual

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)

Description: Failure to maintain storage tanks in according with AWWA standards.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)

Description: Failure to provide the elevated tank with a proper vent.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to locate the elevated tank overflow in an accessible position.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failure to provide an adequate customer service inspection program  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)

Description: Failure to obtain an adequate plumbing ordinance, regulation, or service agreement for all customers.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failure to record and maintain disinfection residual monitoring results.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to prepare and maintain an adequate distribution map.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)

Description: Failure to submit Disinfectant Level Quarterly Operating Reports.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to provide a copy of an adopted drought contingency plan.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)

Description: Failure to monitor for microbial contaminants according to the monitoring plan.

Date: 09/17/2007 (593845) CN600653349

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide for commission review an approved adequate sanitary control easement, ordinance, deed or exception letter.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain intruder resistant fences.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to have a plant operations manual  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)

Description: Failure to maintain storage tanks in according with AWWA standards.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)

Description: Failure to provide the elevated tank with a proper vent.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to locate the elevated tank overflow in an accessible position.  
 Self Report? NO Classification: Minor  
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 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to prepare and maintain an adequate distribution map.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)

Description: Failure to submit Disinfectant Level Quarterly Operating Reports.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to provide a copy of an adopted drought contingency plan.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)

Description: Failure to monitor for microbial contaminants according to the monitoring plan.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)  
 5A THSC Chapter 341, SubChapter A 341.0315

Description: Failure to provide the minimum elevated storage tank capacity.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to calibrate a well meter.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)

Description: Failure to measure free chlorine residual to a minimum accuracy of plus or minus 0.1 mg/L.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failure to submit a capacity planning report.

Date: 07/24/2008 (687445) CN600653349

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
 Description: Failure to maintain disinfectant residual throughout distribution.

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  
LEVERETT'S CHAPEL WATER  
SUPPLY CORPORATION  
RN101457455

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-2082-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 Leverett's Chapel 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 8816 State Highway 42 North near Overton, Rusk County, Texas (the "Facility") that has approximately 205 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 29, 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 Nine Hundred Fifty-Two Dollars (\$952) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Sixty-Two Dollars (\$762) of the administrative penalty and One Hundred Ninety Dollars (\$190) 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 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.
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 Respondent is alleged to have:

1. Failed to design the overflow on the ground storage tank in strict accordance with current American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3), as documented during an investigation conducted on September 29, 2009.
2. Failed to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv), as documented during an investigation conducted on September 29, 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: Leverett's Chapel Water Supply Corporation, Docket No. 2009-2082-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, provide the elevated storage tank with an overflow designed in accordance with AWWA standards, including but not limited to, locating the overflow where it can be inspected from an access ladder or balcony, as required by 30 TEX. ADMIN. CODE § 290.43;
  - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described 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 180 days after the effective date of this Agreed Order, provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
  - d. 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.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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon 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 Srdian*  
For the Executive Director

4/23/2010  
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.

*Mary Hunt*  
Signature

3-9-2010  
Date

GARY HUNT  
Name (Printed or typed)  
Authorized Representative of  
Leverett's Chapel Water Supply Corporation

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.

