EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1946-PWS-E **TCEQ ID:** RN101404002 **CASE NO.:** 33399

RESPONDENT NAME: City of Leona

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Leona, 153 Farm-to-Market Road 977 East, Leona, Leon County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ___ **Yes** __X__ **No**

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 28, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Michaelle Sherlock, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4076; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: The Honorable Ernest T. Oden, Mayor, City of Leona, P.O. Box 10, Leona, Texas 75850
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** September 28, 2010 **Date of NOV/NOE Relating to this Case:** November 19, 2010 (NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failed to provide a sanitary control easement covering all land within 150 feet of Well No. 1 [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)]. 2) Failed to maintain a complete and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l) and TCEQ Agreed Order Docket No. 2007-0708-PWS-E, Ordering Provision 2.a.v.]. 3) Failed to provide a copy of well completion data for Well No. 1 [30 TEX. ADMIN. CODE § 290.46(n)(3)].	**Total Assessed:** $302 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $302 **Compliance History Classification:** Person/CN – N/A Site/RN – N/A **Major Source:** __ Yes __X__ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** This case involves a violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. On December 6, 2010, submitted updates to the plant operations manual; and b. On December 16, 2010, submitted documentation for a sanitary control easement around Well No. 1. **Ordering Provisions:** The Order will require the Respondent to: a. Within 90 days after the effective date of this Agreed Order provide copies of well completion data for Well No. 1 or obtain Commission approval for an exception from the requirement; and 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.

Additional ID No(s).: Public Water Supply Registration 1450008

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	22-Nov-2010					
PCW	3-Dec-2010	**Screening**	2-Dec-2010	**EPA Due**	31-May-2011	

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Leona		
Reg. Ent. Ref. No.	RN101404002		
Facility/Site Region	9-Waco	**Major/Minor Source**	Minor

CASE INFORMATION			
Enf./Case ID No.	33399	**No. of Violations**	3
Docket No.	2010-1946-PWS-E	**Order Type**	Findings
Media Program(s)	Public Water Supply	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Michaelle Sherlock
		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***	**$250**
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	**27.0%** Enhancement	***Subtotals 2, 3, & 7***	**$67**
Notes: Enhancement for one dissimilar NOV and one agreed final enforcement order without denial.			
Culpability No	**0.0%** Enhancement	***Subtotal 4***	**$0**
Notes: The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments		***Subtotal 5***	**$15**
Economic Benefit	**0.0%** Enhancement*	***Subtotal 6***	**$0**
Total EB Amounts $13	**Capped at the Total EB $ Amount*		
Approx. Cost of Compliance $170			
SUM OF SUBTOTALS 1-7		***Final Subtotal***	**$302**
OTHER FACTORS AS JUSTICE MAY REQUIRE	**0.0%**	***Adjustment***	**$0**
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes:		***Final Penalty Amount***	**$302**
STATUTORY LIMIT ADJUSTMENT		***Final Assessed Penalty***	**$302**
DEFERRAL	**0.0%** Reduction	***Adjustment***	**$0**
Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*			
Notes: No deferral is recommended for Findings Orders.			
PAYABLE PENALTY			**$302**

Screening Date 2-Dec-2010 **Docket No.** 2010-1946-PWS-E **PCW**

Respondent City of Leona

Case ID No. 33399

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> 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 for one dissimilar NOV and one agreed final enforcement order without denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 2-Dec-2010 **Docket No.** 2010-1946-PWS-E **PCW**

Respondent City of Leona *Policy Revision 2 (September 2002)*

Case ID No. 33399 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description Failed to provide a sanitary control easement covering all land within 150 feet of Well No. 1.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
Release	Major	Moderate	Minor	
Actual				
Potential			x	

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to provide a sanitary control easement may expose the water source to an insignificant amount of pollution hazards developed within the easement boundaries which would not exceed levels that are protective of human health.

Adjustment $950

$50

Violation Events

Number of Violation Events: 1 — 64 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $50

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction — $5

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

Notes: The Respondent achieved compliance on December 16, 2010.

Violation Subtotal $45

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $59

This violation Final Assessed Penalty (adjusted for limits) $59

Economic Benefit Worksheet

Respondent City of Leona
Case ID No. 33399
Reg. Ent. Reference No. RN101404002
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$20	28-Sep-2010	16-Dec-2010	0.22	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: The delayed costs include the estimated cost to provide a sanitary control easement covering all land within 150 feet of Well No. 1. Date required is the investigation date and the final date is the date of compliance.

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance: $20

TOTAL: $0

Screening Date 2-Dec-2010 **Docket No.** 2010-1946-PWS-E **PCW**

Respondent City of Leona *Policy Revision 2 (September 2002)*

Case ID No. 33399 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l) and TCEQ Agreed Order Docket No. 2007-0708-PWS-E, Ordering Provision 2.a.v

Violation Description Failed to maintain a complete and up-to-date plant operations manual for operator review and reference. Specifically, at the time of the investigation, it was documented that the plant operations manual did not provide telephone numbers of local/state/federal agencies to be contacted in the event of an emergency.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $900

$100

Violation Events

Number of Violation Events: 1 — 1053 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommnended.

Good Faith Efforts to Comply

10.0% Reduction — $10

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

Notes: The Respondent achieved compliance on December 6, 2010.

Violation Subtotal $90

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $117

This violation Final Assessed Penalty (adjusted for limits) $117

Economic Benefit Worksheet

Respondent City of Leona
Case ID No. 33399
Reg. Ent. Reference No. RN101404002
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$50	28-Jan-2008	6-Dec-2010	2.86	$7	n/a	$7
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: The delayed costs include the estimated cost to update the plant operations manual with the emergency contact information. The date required is the effective date of TCEQ Docket No. 2007-0708-PWS-E and the final date is 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 $50

TOTAL $7

Screening Date 2-Dec-2010 **Docket No.** 2010-1946-PWS-E **PCW**

Respondent City of Leona *Policy Revision 2 (September 2002)*

Case ID No. 33399 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101404002

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3)

Violation Description Failed to provide a copy of well completion data for Well No. 1.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $900

$100

Violation Events

Number of Violation Events: 1 — 64 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Good Faith Efforts to Comply

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 $100

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $127

This violation Final Assessed Penalty (adjusted for limits) $127

Economic Benefit Worksheet

Respondent City of Leona
Case ID No. 33399
Reg. Ent. Reference No. RN101404002
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$100	28-Sep-2010	1-Dec-2011	1.18	$6	n/a	$6
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	The delayed costs include the estimated amount to provide well completion data for Well No. 1. Date required is the investigation date and 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 $100

TOTAL $6

Compliance History

Customer/Respondent/Owner-Operator: CN600738363 City of Leona Classification: Rating:

Regulated Entity: RN101404002 CITY OF LEONA Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1450008

WATER LICENSING LICENSE 1450008

Location: 153 FARM-TO-MARKET ROAD 977 EAST, LEONA, LEON COUNTY

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: November 22, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 22, 2005 to November 22, 2010

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

Name: Michaelle Sherlock Phone: (210) 403-4076

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.

Effective Date: 01/28/2008 ADMINORDER 2007-0708-PWS-E

Classification: Major
Citation: 2A TWC Chapter 7, SubChapter A 7.101
Rqmt Prov: Ordering Provisions 2.a.-2.b. ORDER

Description: Failure to comply with the Ordering Provisions of Commission Order 2003-1424-PWS-E.

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

Description: Failure to insure that pasture livestock is prohibited from within 50 feet of a public drinking supply well.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to provide a filter on the air injection line to prevent compressor lubricants and other contaminants from entering the pressure tank.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Rqmt Prov: 2003-1424-PWS-E; ORDER PROVISION 2.a.iii ORDER

Description: Failure to provide an overflow pipe flap valve assembly on the ground storage tank with a good mechanical seal when closed in order to prevent the possible entrance of insects or other contaminants into the water supply.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Rqmt Prov: 2003-1424-PWS-E; Order Prov. 2.a.iv. ORDER

Description: Failure to provide a water system record that needed to be reviewed at the time of the investigation.

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

Description: Failure to provide a plant operations manual.

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 09/05/2006 (497092)
2 04/27/2007 (556328)
3 11/16/2010 (865773)

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

Date: 08/30/2006 (497092) CN600738363

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
Description: Failure to provide water system records.
Failure to maintain records.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide an overflow pipe flap valve assembly on the ground storage tank witha good mechanical seal.

Self Report? NO Classification: Major
Citation: 2A TWC Chapter 7, SubChapter A 7.101
Ordering Provisions 2.a.-2.b. ORDER
Description: Failure to comply with the Ordering Provisions of Commission Order 2003-1424-PWS-E.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CITY OF LEONA RN101404002	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1946-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Leona ("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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 153 Farm-to-Market Road 977 East in Leona, Leon County, Texas (the "Facility") that has approximately 113 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on September 28, 2010, TCEQ staff documented that the Respondent did not provide a sanitary control easement covering all land within 150 feet of Well No. 1.

3. During an investigation conducted on September 28, 2010, TCEQ staff documented that the Respondent did not maintain a complete and up-to-date plant operations manual for operator review and reference. Specifically, at the time of the investigation, it was documented that the plant operations manual did not provide telephone numbers of local, state and federal agencies to be contacted in the event of an emergency.

4. During an investigation conducted on September 28, 2010, TCEQ staff documented that the Respondent did not provide a copy of well completion data for Well No. 1.

5. The Respondent received notice of the violations on November 22, 2010.

6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

   a. On December 6, 2010, submitted updates to the plant operations manual; and

   b. On December 16, 2010, submitted documentation for a sanitary control easement around Well No. 1.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide a sanitary control easement covering all land within 150 feet of Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).

3. As evidenced by Findings of Fact No. 3, the Respondent failed to maintain a complete and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l) and TCEQ Agreed Order Docket No. 2007-0708-PWS-E, Ordering Provision 2.a.v.

4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide a copy of well completion data for Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3).

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of Three Hundred Two Dollars ($302) is justified by the facts recited in this Agreed Order, and considered in light of the factors

set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Three Hundred Two Dollar ($302) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Hundred Two Dollars ($302) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Leona, Docket No. 2010-1946-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. The Respondent shall undertake the following technical requirements:

   a. Within 90 days after the effective date of this Agreed Order provide copies of well completion data for Well No. 1 or obtain Commission approval for an exception from the requirement, as required by 30 TEX. ADMIN. CODE § 290.46; and

   b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7286

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

6. 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.

7. 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.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature

could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing" ,and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ _____
For the Executive Director Date 3/15/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Leona. I am authorized to agree to the attached Agreed Order on behalf of City of Leona, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, City of Leona waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Ernest T. Odom _____
Signature Date JAN. 10, 2011

ERNEST T. ODOM MAYOR
Name (Printed or typed) Title
Authorized Representative of
City of Leona

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.