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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1879-PWS-E **TCEQ ID:** RN101409142 **CASE NO.:** 40738
RESPONDENT NAME: City of Normangee

| | | |
|--|---|---|
| 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 |

SITE WHERE VIOLATION(S) OCCURRED: City of Normangee, located on the corner of Heath Street and 1st Street, Normangee, Leon County

TYPE OF OPERATION: Municipal public water supply

SMALL BUSINESS: Yes 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 May 16, 2011. No comments were received.

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: The Honorable J.C. Traylor, Mayor, City of Normangee, P.O. Box 37, Normangee, Texas 77871
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 12, 2010</p> <p>Date of NOV/NOE Relating to this Case: October 25, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failed to obtain a sanitary control easement that covers the land within 150 feet of the well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>2) Failed to compile a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].</p> <p>3) Failed to complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities [30 TEX. ADMIN. CODE § 290.46(j)].</p> <p>4) Failed to ensure that a backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].</p> | <p>Total Assessed: \$1,624</p> <p>Total Deferred: \$324 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$112 (remaining \$1,188 due in 11 monthly payments of \$108 each)</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that, as of February 1, 2011, the Respondent had compiled a thorough and up-to-date plant operations manual for operator review and reference.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, complete customer service inspection certificates for the newly constructed Baptist church expansion at 202 4th Street, the school's new gym and classrooms at 312 South Farm-to-Market Spur 3, a new residence located at 120 Farm-to-Market Spur 3, and at any location undergoing construction or modification when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Obtain a sanitary control easement or an exception, submitted pursuant to 30 TEX. ADMIN. CODE § 290.39(l) and approved by the Commission, that covers the land within 150 feet of Well No. 1; and</p> <p>ii. Ensure that a backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists, including, but not limited to St. Joseph Normangee Family Clinic and Ellison</p> |

| | | |
|--|--|---|
| | | <p>Family Dentistry.</p> <p>d. 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 c.</p> |
|--|--|---|

Additional ID No(s): PWS Registration 1450004



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 25-Oct-2010 | Screening | 17-Nov-2010 | EPA Due | |
| | PCW | 23-Feb-2011 | | | | |

| | |
|--|-------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Normangee |
| Reg. Ent. Ref. No. | RN101409142 |
| Facility/Site Region | 9-Waco |
| Major/Minor Source | Minor |

| | | | |
|--|---------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 40738 | No. of Violations | 4 |
| Docket No. | 2010-1879-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** **\$1,450**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **12.0%** Enhancement **Subtotals 2, 3, & 7** **\$174**

Notes: Enhancement for two NOV's with same/similar violations and one NOV with dissimilar violations.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$49**
 Approx. Cost of Compliance **\$550**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,624**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$1,624**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,624**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$324**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,300**

Screening Date 17-Nov-2010

Docket No. 2010-1879-PWS-E

PCW

Respondent City of Normangee

Policy Revision 2 (September 2002)

Case ID No. 40738

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409142

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 2 | 10% |
| | Other written NOVs | 1 | 2% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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 (<i>number of judgements or consent decrees meeting criteria</i>) | 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 (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 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 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 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) 12%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one NOV with dissimilar violations.

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

Screening Date 17-Nov-2010

Docket No. 2010-1879-PWS-E

PCW

Respondent City of Normangee

Policy Revision 2 (September 2002)

Case ID No. 40738

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409142

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

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

Violation Description Failed to obtain a sanitary control easement that covers the land within 150 feet of the well. Specifically, on the date of the record review, it was noted that the land around the well located at the main water plant on the corner of 1st Street and Heath Street was not covered by a sanitary control easement.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (5%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Failure to have a sanitary control easement in place could allow activities to occur next to the well which could cause customers of the Facility to be exposed insignificant amounts of contaminants, which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 36

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$56

This violation Final Assessed Penalty (adjusted for limits) \$56

Economic Benefit Worksheet

Respondent City of Normangee
Case ID No. 40738
Req. Ent. Reference No. RN101409142
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$20 | 24-Sep-2009 | 30-Sep-2011 | 2.02 | \$0 | \$3 | \$3 |
| 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 record a sanitary control easement, calculated from the date of the initial investigation documenting the violation 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

\$20

TOTAL

\$3

Screening Date 17-Nov-2010

Docket No. 2010-1879-PWS-E

PCW

Respondent City of Normangee

Policy Revision 2 (September 2002)

Case ID No. 40738

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409142

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)

Violation Description Failed to compile a thorough and up-to-date plant operations manual for operator review and reference. Specifically, on the date of the record review, it was noted that the Respondent had no plant operations manual for the Facility.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 36

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$112

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

Economic Benefit Worksheet

Respondent City of Normangee
Case ID No. 40738
Req. Ent. Reference No. RN101409142
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

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 | \$50 | 24-Sep-2009 | 1-Feb-2011 | 1.36 | \$3 | n/a | \$3 |
| 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 create a thorough and up-to-date plant operations manual, calculated from the date of the initial investigation documenting the violation 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

\$50

TOTAL

\$3

Screening Date 17-Nov-2010

Docket No. 2010-1879-PWS-E

PCW

Respondent City of Normangee

Policy Revision 2 (September 2002)

Case ID No. 40738

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409142

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

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

Violation Description

Failed to complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. Specifically, on the date of the record review, it was noted that no customer service inspection certificates were completed for the newly constructed Baptist church expansion at 202 4th Street, the school's new gym and classrooms at 312 South Farm-to-Market Spur 3, and a new residence located at 120 Farm-to-Market Spur 3.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | 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 3

36 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

mark only one with an x

Violation Base Penalty \$300

Three single events are recommended (one event for each location).

Good Faith Efforts to Comply

0.0% Reduction

\$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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$336

This violation Final Assessed Penalty (adjusted for limits) \$336

Economic Benefit Worksheet

Respondent City of Normangee
Case ID No. 40738
Reg. Ent. Reference No. RN101409142
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) | \$300 | 24-Sep-2010 | 31-Jul-2011 | 0.85 | \$1 | \$17 | \$18 |
| 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 complete three customer service inspection forms, calculated from the date of the initial investigation documenting the violation 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

\$300

TOTAL

\$18

Screening Date 17-Nov-2010

Docket No. 2010-1879-PWS-E

PCW

Respondent City of Normangee

Policy Revision 2 (September 2002)

Case ID No. 40738

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409142

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.44(h)(1)(A)

Violation Description

Failed to ensure that a backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists. Specifically, on the date of the record review, it was noted that backflow prevention assemblies or air gaps were not installed at the St. Joseph Normangee Family Clinic and at Ellison Family Dentistry.

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 backflow prevention assemblies or air gaps installed could result in customers of the Facility becoming exposed to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 4

36 Number of violation days

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

Violation Base Penalty \$1,000

Four monthly events (two monthly events per location) are recommended, calculated from the date of the record review, October 12, 2010, to the date of case screening, November 17, 2010.

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$1,120

This violation Final Assessed Penalty (adjusted for limits) \$1,120

Economic Benefit Worksheet

Respondent City of Normangee
Case ID No. 40738
Req. Ent. Reference No. RN101409142
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|------|-----|------|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$180 | 24-Sep-2009 | 30-Sep-2011 | 2.02 | \$1 | \$24 | \$25 |
| 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 ensure that backflow prevention assemblies are installed at the health clinic and at the dentist office, calculated from the date of the initial 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

\$180

TOTAL

\$25

Compliance History

Customer/Respondent/Owner-Operator: CN600513501 City of Normangee Classification: AVERAGE Rating: 5.74
 Regulated Entity: RN101409142 CITY OF NORMANGEE Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1450004
 WATER LICENSING LICENSE 1450004
 Location: Corner of Heath St. & 1st St., Normangee, Leon County, Texas
 TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: November 17, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 17, 2005 to November 17, 2010
 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 | 03/08/2006 | (434623) |
| 2 | 04/14/2006 | (462029) |
| 3 | 11/09/2009 | (776975) |
| 4 | 01/21/2010 | (787849) |
| 5 | 06/21/2010 | (825916) |
| 6 | 10/22/2010 | (870294) |

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

Date: 03/08/2006 (434623) CN600513501
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to provide a sanitary control easement for the well.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
 Description: Failure to properly screen the well #3 casing vent with 16-mesh or finer corrosion-resistant screening material.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
 Description: Failure to provide a proper screen on the well #3 air release device.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to provide an intruder-resistant fence in order to protect well #2, the elevated tank, and the ground storage tanks.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
 Description: Failure to provide a properly screened vent at the chlorine room.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Description: Failure to provide an up-to-date distribution map.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
 Description: Failure to use ANSI/NSF Standard 60 approved chemicals in the water treatment process.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
 Description: Failure to provide a customer service agreement, plumbing ordinance, or regulations for proper enforcement.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
 Description: Failure to calibrate the flow meter for well #2.

Date: 05/19/2006 (466962) CN600513501
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to maintain all distribution system lines in a watertight condition.

Date: 11/13/2009 (776975) CN600513501
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to provide a sanitary control easement for the well.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
 Description: Complete failure to conduct Customer Service Inspections on new construction prior to providing water service.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
 Description: Failure to provide a backflow prevention assembly where one is required to protect against a high health hazard.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 288, SubChapter C 288.30(5)(B)
 Description: Failure to provide an adopted Drought Contingency Plan.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
 Description: Failure to provide a screen on the upper vent on the chlorine room.

- 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 NORMANGEE
RN101409142**

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

AGREED ORDER DOCKET NO. 2010-1879-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 City of Normangee ("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 municipal public water supply on the corner of Heath Street and 1st Street in Normangee, Leon County, Texas (the "Facility") that has approximately 364 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 October 30, 2010.
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 One Thousand Six Hundred Twenty-Four Dollars (\$1,624) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Twelve Dollars (\$112) of the administrative penalty and Three Hundred Twenty-Four Dollars (\$324) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand One Hundred Eighty-Eight Dollars (\$1,188) of the administrative penalty shall be payable in eleven (11) monthly payments of One Hundred Eight Dollars (\$108) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

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, as of February 1, 2011, the Respondent had compiled a thorough and up-to-date plant operations manual for operator review and reference.
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 obtain a sanitary control easement that covers the land within 150 feet of the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during a record review conducted on October 12, 2010.
2. Failed to compile a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l), as documented during a record review conducted on October 12, 2010.

3. Failed to complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(j), as documented during a record review conducted on October 12, 2010.
4. Failed to ensure that a backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A), as documented during a record review conducted on October 12, 2010.

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: City of Normangee, Docket No. 2010-1879-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 30 days after the effective date of this Agreed Order, complete customer service inspection certificates for the newly constructed Baptist church expansion at 202 4th Street, the school's new gym and classrooms at 312 South Farm-to-Market Spur 3, a new residence located at 120 Farm-to-Market Spur 3, and at any location undergoing construction or modification when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities, as required by 30 TEX. ADMIN. CODE § 290.46(j).
 - b. Within 45 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 90 days after the effective date of this Agreed Order:
 - i. Obtain a sanitary control easement or an exception, submitted pursuant to 30 TEX. ADMIN. CODE § 290.39(l) and approved by the Commission, that covers the land within 150 feet of Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
 - ii. Ensure that a backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists, including, but not limited to St. Joseph Normangee Family Clinic and Ellison Family Dentistry, in accordance with 30 TEX. ADMIN. CODE § 290.44.
- d. 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.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 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.
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 Zedler
For the Executive Director

4.14.2011
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.

J.C. Traylor
Signature

03-09-11
Date

J.C. TRAYLOR
Name (Printed or typed)
Authorized Representative of
City of Normangee

MAYOR
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.