

Page 1 of 3

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1922-PWS-E **TCEQ ID:** RN102690310 **CASE NO.:** 40786
RESPONDENT NAME: City of East Tawakoni

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Rolling Hills Water System, located at Private Road 3435 and Farm-to-Market Road 513 East, Hunt County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on September 9, 2010 alleging the residents have been experiencing problems for years. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 9, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Kelly Wisian, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2570; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable James Thomas, Mayor, City of East Tawakoni, 228 Briggs Boulevard, East Tawakoni, Texas 75472 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: September 9, 2010</p> <p>Date of Investigation Relating to this Case: September 9, 2010 through September 17, 2010</p> <p>Date of NOV/NOE Relating to this Case: November 16, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failed to flush dead-end mains at regular monthly intervals [30 TEX. ADMIN. CODE § 290.46(l)].</p> <p>2) Failed operate the disinfection equipment to continuously maintain a disinfectant residual of 0.5 milligrams per liter ("mg/L") of chloramine throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4)].</p> <p>3) Failed to maintain maintenance records for water system equipment and facilities [30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(vi)].</p> <p>4) Failed to provide sufficient valves and blowoffs within the distribution system so that necessary repairs can be made without undue interruption of service and for flushing the distribution system when required [30 TEX. ADMIN. CODE § 290.44(d)(5)].</p> <p>5) Failed to maintain an up-to-date chemical and microbiological monitoring plan which identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].</p>	<p>Total Assessed: \$2,600</p> <p>Total Deferred: \$520 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,080</p> <p>Compliance History Classifications: Person/CN - Average Site/RN -</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin maintaining a disinfectant residual of at least 0.5 mg/L of chloramine throughout the distribution system at all times.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit written certification as described in Ordering Provision e. to demonstrate compliance with Ordering Provision a.;</p> <p>ii. Begin properly maintaining all Facility records, including but not limited to the maintenance records for water system equipment and facilities;</p> <p>iii. Update the Facility's chemical and microbiological monitoring plan to include all sampling locations which are representative of the water quality throughout the distribution system, including but not limited to the subdivisions of Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills, the sampling frequency, and specify the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements;</p> <p>iv. Begin monitoring and recording the disinfectant residual at representative locations in the distribution system at least once per day, including but not limited to sampling in the areas served by the old steel lines in the subdivisions of Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills;</p> <p>v. Commence flushing all dead-end mains at monthly intervals or more frequently if water quality complaints are received from water customers; and</p> <p>vi. Begin collecting routine coliform samples at active service connections which are representative of water quality throughout the distribution</p>

<p>6) Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day [30 TEX. ADMIN. CODE § 290.110(c)(4)(B)].</p> <p>7) Failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system [30 TEX. ADMIN. CODE § 290.109(c)(1)(A)].</p>		<p>system, including but not limited to the following subdivisions: Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills.</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision e. to demonstrate compliance with Ordering Provision b.ii. through b.vi.</p> <p>d. Within 60 days after the effective date of this Agreed Order, install a sufficient number of valves and blowoffs so that necessary repairs can be made without undue interruption of service and for flushing the system when required, including but not limited to installing flush valves in the following subdivisions: Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills.</p> <p>e. Within 75 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 d.</p>
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Additional ID No(s): PWS Registration 1160048



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Nov-2010	Screening	24-Nov-2010	EPA Due	
	PCW	29-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	City of East Tawakoni				
Reg. Ent. Ref. No.	RN102690310				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	40786	No. of Violations	8
Docket No.	2010-1922-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Kelly Wisian
		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: Enhancement for two NOV's with same/similar violations and two final agreed orders containing a denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 24-Nov-2010

Docket No. 2010-1922-PWS-E

PCW

Respondent City of East Tawakoni

Policy Revision 2 (September 2002)

Case ID No. 40786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690310

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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%
<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) 50%

>> 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 two final agreed orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date 24-Nov-2010
Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media [Statute] Public Water Supply
Enf. Coordinator Kelly Wisian
Violation Number 1

Docket No. 2010-1922-PWS-E

PCW

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

Rule Cite(s)

30 Tex. Admin. Code § 290.46(l)

Violation Description

Failed to flush dead-end mains at regular monthly intervals. Specifically, a review of the flushing records showed only one flush valve within the distribution system was being flushed.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to flush all dead-end mains monthly, could result in the customers of the Facility becoming exposed to a significant amount of pollutants, which would not exceed levels that are protective of human health or the environment.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

76 Number of violation days

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 date of the investigation, September 9, 2010, to the screening date, November 24, 2010.

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

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$150

This violation Final Assessed Penalty (adjusted for limits) \$150

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	9-Sep-2010	1-Jul-2011	0.81	\$4	n/a	\$4
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 initiate a flushing program at monthly intervals, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 24-Nov-2010

Docket No. 2010-1922-PWS-E

PCW

Respondent City of East Tawakoni

Policy Revision 2 (September 2002)

Case ID No. 40786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690310

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(4)

Violation Description Failed to operate the disinfection equipment to continuously maintain a disinfectant residual of 0.5 milligrams per liter ("mg/L") of chloramine throughout the distribution system at all times. Specifically, samples documented during field tests were 0.05 mg/L and 0.07 mg/L on September 9, 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (10%).

>> Programmatic Matrix

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

Matrix Notes Failure to maintain adequate disinfection residuals could expose customers of the Facility to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 76

Table for marking violation 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 \$0

Violation Final Penalty Total \$150

This violation Final Assessed Penalty (adjusted for limits) \$150

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

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

Notes for AVOIDED costs

Avoided costs for this violation are captured in the economic benefit for violation no. 8.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 24-Nov-2010
Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media [Statute] Public Water Supply
Enf. Coordinator Kelly Wisian
Violation Number 3

Docket No. 2010-1922-PWS-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(A)(vi)
Violation Description Failed to maintain maintenance records for water system equipment and facilities. Specifically, at the time of the investigation, no records were available regarding distribution line repairs.

Base Penalty \$1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes Less than 10% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10

One single event is recommended.

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 \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$15

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
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	\$45	9-Sep-2010	30-Jun-2011	0.81	\$2	n/a	\$2
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 develop and begin maintaining a record keeping system for all operating and maintenance activities at the Facility, including but not limited to records for the maintenance on the system regarding line repairs and the applicability and compliance with the special precautions requirements, calculated from the investigation date 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 \$45

TOTAL \$2

Screening Date 24-Nov-2010

Docket No. 2010-1922-PWS-E

PCW

Respondent City of East Tawakoni

Policy Revision 2 (September 2002)

Case ID No. 40786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690310

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.44(d)(5)

Violation Description

Failed to provide sufficient valves and blowoffs within the distribution system so that necessary repairs can be made without undue interruption of service and for flushing the distribution system when required. Specifically, at the time of the investigation, it was documented that the Facility does not have a sufficient number of flush valves for flushing distribution lines in the following subdivisions: Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Without sufficient valves and blowoffs, necessary repairs cannot be made without undue interruption of service and the Facility would not have means of flushing contaminated water from the water mains. This would expose the public to significant amounts of pollutants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 76

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 date of the investigation, September 9, 2010, to the screening date, November 24, 2010.

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

Statutory Limit Test

Estimated EB Amount \$3,634

Violation Final Penalty Total \$150

This violation Final Assessed Penalty (adjusted for limits) \$150

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
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)				0.00	\$0	\$0	\$0
Engineering/construction	\$58,125	9-Sep-2010	1-Aug-2011	0.89	\$173	\$3,461	\$3,634
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 costs include the amount to install valves and blowoffs in the distribution system for maintenance or repair activities, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$58,125

TOTAL

\$3,634

Screening Date 24-Nov-2010

Docket No. 2010-1922-PWS-E

PCW

Respondent City of East Tawakoni

Policy Revision 2 (September 2002)

Case ID No. 40786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690310

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description

Failed to maintain an up-to-date chemical and microbiological monitoring plan which identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, a review of the Facility's monitoring plan documented that the monitoring plan did not show all sampling locations and frequency or specify analytical procedures and approved laboratories used.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		5%

Matrix Notes

At least 30% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 76

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$75

This violation Final Assessed Penalty (adjusted for limits) \$75

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media Public Water Supply
Violation No. 5

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)	\$45	9-Sep-2010	1-Jul-2011	0.81	\$0	\$2	\$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 necessary to maintain on file an accurate and up-to-date monitoring plan, calculated from the date of 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

\$45

TOTAL

\$3

Screening Date 24-Nov-2010
Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media [Statute] Public Water Supply
Enf. Coordinator Kelly Wisian

Docket No. 2010-1922-PWS-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day. Specifically, at the time of the investigation, it was documented that the sampling did not include areas served by the old steel lines in the subdivisions of Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes:

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes:

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$180	9-Sep-2010	24-Nov-2010	1.13	\$10	\$180	\$190
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to monitor of the disinfectant residual within the distribution system on a daily basis (\$15 per week), calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance

\$180

TOTAL

\$190

Screening Date 24-Nov-2010
Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media [Statute] Public Water Supply
Enf. Coordinator Kelly Wisian

Docket No. 2010-1922-PWS-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description Failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system. Specifically, at the time of the investigation, the sampling site plan did not include any of the following subdivisions: Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Failure to collect coliform samples from representative locations within the distribution system could expose customers of the Facility to a significant amount of undetected contaminants which would exceed levels that are protective of human health.

Adjustment

Violation Events

	<input type="text" value="3"/>	<input type="text" value="76"/>	Number of violation days
mark only one with an x	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text" value="x"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Violation Base Penalty

Three monthly events are recommended from the date of the investigation, September 9, 2010, to the date of screening, November 24, 2010.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	9-Sep-2010	1-Jul-2011	0.81	\$0	\$5	\$6
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 costs include the estimated amount to update the Facility's sampling site plan to ensure coliform samples are collected in areas representative of the entire distribution system, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

Screening Date 24-Nov-2010

Docket No. 2010-1922-PWS-E

PCW

Respondent City of East Tawakoni

Policy Revision 2 (September 2002)

Case ID No. 40786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690310

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(4)

Violation Description Failed to operate the disinfection equipment to continuously maintain a disinfectant residual of 0.5 milligrams per liter ("mg/L") of chloramine throughout the distribution system at all times. Specifically, samples documented during field tests ranged from 0.00 mg/L to 0.23 mg/L at various locations throughout the distribution system on September 10 and 16, 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to maintain adequate disinfection residuals could expose customers of the Facility to significant amounts of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

	2	76	Number of violation days	
mark only one with an x	daily			Violation Base Penalty \$500
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
single event	x			

Two single events are recommended (one for each date in which no disinfectant residual was detected).

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$317

Violation Final Penalty Total \$750

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

Economic Benefit Worksheet

Respondent City of East Tawakoni
Case ID No. 40786
Reg. Ent. Reference No. RN102690310
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	9-Sep-2010	24-Nov-2010	1.13	\$17	\$300	\$317
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount for additional maintenance, oversight and an increase in chlorine dosage that could have avoided or prevented the low disinfectant residual levels, calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance

\$300

TOTAL

\$317

Compliance History Report

Customer/Respondent/Owner-Operator: CN600633432 City of East Tawakoni Classification: AVERAGE Rating: 3.05
Regulated Entity: RN102690310 ROLLING HILLS WATER SYSTEM Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1160048
Location: Private Road 3435 and Farm-to-Market Road 513 East, Hunt County, TEXAS
TCEQ Region: REGION 04 – Dallas/Fort Worth METROPLEX
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: Kelly Wisian Phone: (512) 239-2570

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? Yes
3. If Yes, who is the current owner/operator? City of East Tawakoni
4. If Yes, who was/were the prior owner(s)/operator(s)? Community Water Company
5. When did the change(s) in owner or operator occur? April 7, 2008

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: 07/14/2006 ADMINORDER 2006-0119-PWS-E

Classification: Moderate

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

Description: Failed to keep on file and make available for Commission review customer service inspection certificates.

Classification: Minor

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

Description: Failed to flush dead-end mains at monthly intervals and as needed when water quality complaints are received and when disinfectant residuals fall below acceptable levels.

Classification: Minor

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

Description: Failed to use chemicals in the water supplied to the public that conforms to American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 for direct additives and ANSI/NSF Standard 61 for indirect additives.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failed to keep on file and make available for Commission review an up-to-date chemical and microbiological monitoring plan for the water system.

Classification: Minor

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

Description: Failed to enclose the pump house and storage tanks with an intruder-resistant fence with lockable gates or in a lockable building that is designed to prevent intruder access.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failed to equip the ground storage tank with a liquid level indicator.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failed to maintain a free chlorine residual of 0.2 milligrams per liter throughout the distribution system at all times.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
5A THC Chapter 341, SubChapter A 341.0315(e)

Description: Failed to provide a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal conditions.

Effective Date: 05/25/2007 ADMINORDER 2006-2237-PWS-E

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L of free chlorine, or a 0.5 mg/L chloramine, as per agency regulations.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all distribution system lines in a watertight condition.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/29/2005	(436879)
2	12/07/2006	(532755)
3	07/24/2008	(685011)
4	04/09/2009	(736970)
5	11/15/2010	(864223)

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

Date: 09/29/2006 (513917) CN600633432

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L of free chlorine, or a 0.5 mg/L chloramine, as per agency regulations.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all distribution system lines in a watertight condition.

Date: 07/25/2008 (685011) CN600633432

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121

Description: Failure to compile a system monitoring plan for the system.

Self Report? NO Classification: Minor

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

Description: Failure to provide customer service inspections at the time of the investigation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to provide an adequate up-to-date distribution map.

Self Report? NO Classification: Minor

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

Description: Failure to provide copies of service agreements at the time of the investigation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)

Description: Failure to provide a pressure tank capacity of at least 20 gallons per connection.

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.

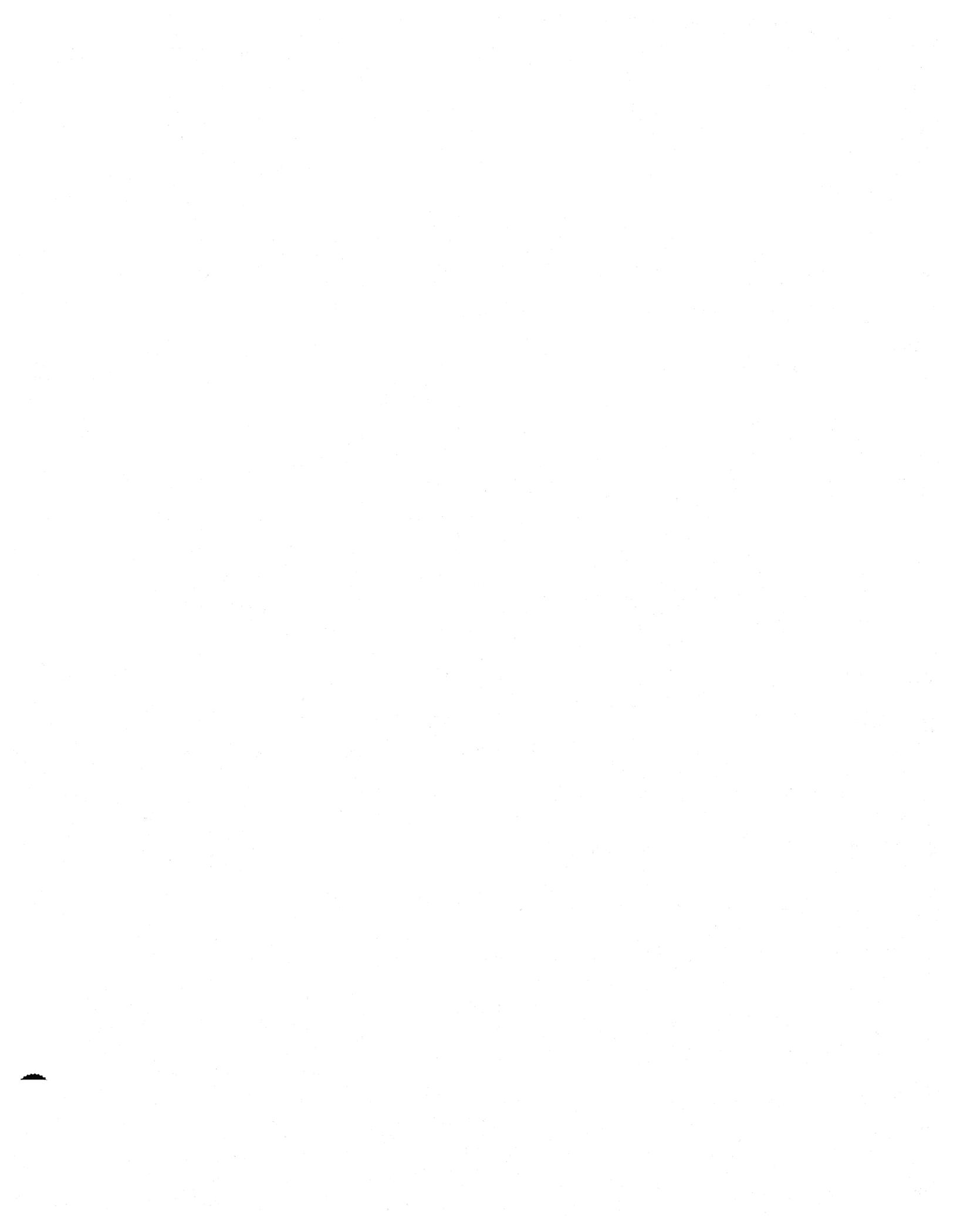
N/A

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 EAST TAWAKONI
RN102690310**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1922-PWS-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of East Tawakoni ("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 located at Private Road 3435 and Farm-to-Market Road 513 East in Hunt County, Texas (the "Facility") that has approximately 308 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 21, 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 Two Thousand Six Hundred Dollars (\$2,600) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Two Thousand Eighty Dollars (\$2,080) of the administrative penalty and Five Hundred Twenty Dollars (\$520) 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 flush dead-end mains at regular monthly intervals, in violation of 30 TEX. ADMIN. CODE § 290.46(l), as documented during an investigation conducted on September 9, 2010.
2. Failed operate the disinfection equipment to continuously maintain a disinfectant residual of 0.5 milligrams per liter ("mg/L") of chloramine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4), as documented during investigations conducted on September 9, 10, and 16, 2010.
3. Failed to maintain maintenance records for water system equipment and facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(vi), as documented during an investigation conducted on September 9, 2010.
4. Failed to provide sufficient valves and blowoffs within the distribution system so that necessary repairs can be made without undue interruption of service and for flushing the distribution system when required, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(5), as documented during an investigation conducted on September 9, 2010.

5. Failed to maintain an up-to-date chemical and microbiological monitoring plan which identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b), as documented during an investigation conducted on September 9, 2010.
6. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(B), as documented during an investigation conducted on September 9, 2010.
7. Failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(1)(A), as documented during an investigation conducted on September 9, 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 East Tawakoni, Docket No. 2010-1922-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. Immediately upon the effective date of this Agreed Order, begin maintaining a disinfectant residual of at least 0.5 mg/L of chloramine throughout the distribution system at all times, as required by 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 30 days after the effective date of this Agreed Order:

- i. Submit written certification as described in Ordering Provision No. 2.e. to demonstrate compliance with Ordering Provision 2.a.;
 - ii. Begin properly maintaining all Facility records, including but not limited to the maintenance records for water system equipment and facilities, as required by 30 TEX. ADMIN. CODE § 290.46;
 - iii. Update the Facility's chemical and microbiological monitoring plan to include all sampling locations which are representative of the water quality throughout the distribution system, including but not limited to the subdivisions of Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills, the sampling frequency, and specify the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, as required by 30 TEX. ADMIN. CODE § 290.121;
 - iv. Begin monitoring and recording the disinfectant residual at representative locations in the distribution system at least once per day, including but not limited to sampling in the areas served by the old steel lines in the subdivisions of Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills, in accordance with 30 TEX. ADMIN. CODE 290.110;
 - v. Commence flushing all dead-end mains at monthly intervals or more frequently if water quality complaints are received from water customers, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - vi. Begin collecting routine coliform samples at active service connections which are representative of water quality throughout the distribution system, including but not limited to the following subdivisions: Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills, as required by 30 TEX. ADMIN. CODE § 290.109.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. to demonstrate compliance with Ordering Provision 2.b.ii. through 2.b.vi.
 - d. Within 60 days after the effective date of this Agreed Order, install a sufficient number of valves and blowoffs so that necessary repairs can be made without undue interruption of service and for flushing the system when required, including but not limited to installing flush valves in the following subdivisions: Holiday Hills, Kiowa Village, Highland Acres, and Rolling Hills, in accordance with 30 TEX. ADMIN. CODE § 290.44.
 - e. Within 75 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.d. 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 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



For the Executive Director

5/23/2011

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.



Signature

5-15-2011

Date

JAMES THOMAS

Name (Printed or typed)
Authorized Representative of
City of East Tawakoni

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.