

Executive Summary – Enforcement Matter – Case No. 46240

City of Jefferson

RN101221471

Docket No. 2013-0349-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Jefferson PWS, 1401 North Line, Jefferson, Marion County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 5, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$4,900

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,900

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 46240

City of Jefferson

RN101221471

Docket No. 2013-0349-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 7, 2012

Date(s) of NOE(s): December 21, 2012

Violation Information

1. Failed to ensure the Facility's elevated storage tanks and standpipes are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(8)].

2. Failed to install a backflow prevention assembly or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 240.47(i) [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

a. Within 90 days, ensure that a proper backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists, including, but not limited to the two car washes, the dentist's office and two veterinary clinics;

b. Within 105 days, submit written certification demonstrating compliance with Ordering Provision a.;

c. Within 180 days, refurbish or replace the elevated storage tank and standpipe so that the interior and exterior meet AWWA standards; and

d. Within 195 days, submit written certification demonstrating compliance with Ordering Provision c.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Executive Summary – Enforcement Matter – Case No. 46240
City of Jefferson
RN101221471
Docket No. 2013-0349-PWS-E

Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Richard Turner, Mayor, City of Jefferson, P.O. Box 505, Jefferson, Texas 75657

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	7-Jan-2013		
	PCW	20-Feb-2013	Screening	7-Feb-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Jefferson
Reg. Ent. Ref. No.	RN101221471
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	46240	No. of Violations	1
Docket No.	2013-0349-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jim Fisher
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$32,165
 Approx. Cost of Compliance: \$167,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$250

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$250
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$250
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Screening Date 7-Feb-2013

Docket No. 2013-0349-PWS-E

PCW

Respondent City of Jefferson

Case ID No. 46240

Policy Revision 2 (September 2002)

Reg. Ent. Reference No. RN101221471

PCW Revision October 30, 2008

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

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>)	0	0%
	Other written NOVs	0	0%
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%
<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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 7-Feb-2013

Docket No. 2013-0349-PWS-E

PCW

Respondent City of Jefferson

Policy Revision 2 (September 2002)

Case ID No. 46240

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101221471

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8)

Violation Description Failed to ensure that the Facility's elevated storage tanks are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, as documented during an investigation conducted on May 25, 2010, record reviews conducted on September 9, 2010, and January 20, 2011, and an investigation conducted on November 7, 2012, the elevated storage tank on Houston Street was rusted and in need of recoating and repair.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

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

Matrix Notes Failure to maintain the storage tank in accordance with AWWA standards could allow a significant amount of contaminants to enter the water supply that do not exceed levels which are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 92 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the November 7, 2012 investigation date to the February 7, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32,165

Violation Final Penalty Total \$250

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

Economic Benefit Worksheet

Respondent City of Jefferson
Case ID No. 46240
Reg. Ent. Reference No. RN101221471
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				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)	\$167,000	25-May-2010	31-Mar-2014	3.85	\$32,165	n/a	\$32,165

Notes for DELAYED costs

The delayed cost includes the estimated amount (\$1.67 per gallon x 100,000 gallons = \$167,000) to paint the elevated storage tank in accordance with AWWA standards, calculated from date the violation was initially documented 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

\$167,000

TOTAL

\$32,165



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Jan-2013	Screening	7-Feb-2013	EPA Due	
	PCW	20-Feb-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Jefferson				
Reg. Ent. Ref. No.	RN101221471				
Facility/Site Region	5-Tyler	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	46240	No. of Violations	2
Docket No.	2013-0349-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jim Fisher
		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	\$4,650
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$6,957
Approx. Cost of Compliance	\$98,900

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,650
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$4,650**

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,650
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$4,650
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Screening Date 7-Feb-2013

Docket No. 2013-0349-PWS-E

PCW

Respondent City of Jefferson

Policy Revision 3 (September 2011)

Case ID No. 46240

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101221471

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

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>)	0	0%
	Other written NOVs	0	0%
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%
<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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 7-Feb-2013

Docket No. 2013-0349-PWS-E

PCW

Respondent City of Jefferson

Policy Revision 3 (September 2011)

Case ID No. 46240

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101221471

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8)

Violation Description Failed to ensure that the Facility's standpipes are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, as documented during an investigation conducted on November 7, 2012, the standpipe on Bulldog Drive was rusted and in need of recoating and repair.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR Release Major Moderate Minor Harm Actual Potential Percent 15.0%

>> Programmatic Matrix

95200 Falsification Major Moderate Minor Percent 0.0%

Matrix Notes Failure to maintain the standpipes in accordance with AWWA standards could allow a significant amount of contaminants to enter the water supply that do not exceed levels which are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 92 Number of violation days

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

Violation Base Penalty \$150

One quarterly event is recommended, calculated from the November 7, 2012 investigation date to the February 7, 2013 screening date.

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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,624

Violation Final Penalty Total \$150

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

Economic Benefit Worksheet

Respondent City of Jefferson
Case ID No. 46240
Reg. Ent. Reference No. RN101221471
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)				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)	\$95,200	7-Nov-2012	31-Mar-2014	1.39	\$6,624	n/a	\$6,624

Notes for DELAYED costs

The delayed cost includes the estimated amount (\$0.80 per gallon X 119,000 gallons = \$95,200) to paint the standpipe in accordance with AWWA standards, 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

\$95,000

TOTAL

\$6,624

Screening Date 7-Feb-2013

Docket No. 2013-0349-PWS-E

PCW

Respondent City of Jefferson

Policy Revision 3 (September 2011)

Case ID No. 46240

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101221471

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 2

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

Violation Description

Failed to install a backflow prevention assembly ("BPA") or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 Tex. Admin. Code § 240.47(l). Specifically, the Respondent did not have backflow prevention devices installed at two car washes, the dentist's office and two veterinary clinics.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to have a BPA or an air gap installed may allow backflow and siphonage to occur, resulting in customers of the Facility being exposed to contaminants which would exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 15

92 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$4,500

Fifteen monthly events are recommended (three months for each location), calculated from the November 7, 2012 investigation date to the February 7, 2013 screening date.

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 \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$319

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent City of Jefferson
Case ID No. 46240
Reg. Ent. Reference No. RN101221471
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	\$3,700	7-Nov-2012	31-Jan-2014	1.23	\$15	\$304	\$319
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 install the appropriate BPAs or air gaps (\$740 per installation x 5 installations) where the Facility has reason to believe that cross-connections or other potential contamination hazards exist, calculated from the November 7, 2012 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 \$3,700

TOTAL \$319

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600662829, RN101221471, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600662829, City of Jefferson **Classification:** SATISFACTORY **Rating:** 0.13
Regulated Entity: RN101221471, CITY OF JEFFERSON **Classification:** NOT APPLICABLE **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: 1401 NORTH LINE, JEFFERSON, MARION COUNTY, TEXAS
TCEQ Region: REGION 05 - TYLER

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1580001 **WATER LICENSING LICENSE** 1580001
Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012
Date Compliance History Report Prepared: February 13, 2013
Agency Decision Requiring Compliance History: Enforcement
Component Period Selected: January 07, 2008 to January 07, 2013
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jim Fisher **Phone:** (512) 239-2537

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

- A. Final Orders, court judgments, and consent decrees:** N/A
B. Criminal convictions: N/A
C. Chronic excessive emissions events: N/A
D. The approval dates of investigations (CCEDS Inv. Track. No.): N/A
E. Written notices of violations (NOV) (CCEDS Inv. Track. No.): N/A
- A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
- 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 JEFFERSON
RN101221471**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-0349-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Jefferson (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 1401 North Line, in Jefferson, Marion County, Texas (the "Facility") that has approximately 1,325 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on May 25, 2010, record reviews conducted on September 9, 2010, and January 20, 2011, and an investigation conducted on November 7, 2012, TCEQ staff documented that the elevated storage tank on Houston Street was rusted and in need of recoating and repair.
3. During an investigation conducted on November 7, 2012, TCEQ staff documented that the standpipe on Bulldog Drive was rusted and in need of recoating and repair.
4. During an investigation conducted on November 7, 2012, TCEQ staff documented that the Respondent did not have backflow prevention devices installed at two car washes, the dentist's office and two veterinary clinics.
5. The Respondent received notice of the violations on January 4, 2013

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact Nos. 2 and 3, the Respondent failed to ensure the Facility's elevated storage tanks and standpipes are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to install a backflow prevention assembly or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 240.47(i), in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Four Thousand Nine Hundred Dollars (\$4,900) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Four Thousand Nine Hundred Dollar (\$4,900) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Four Thousand Nine Hundred Dollars (\$4,900) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Jefferson, Docket No. 2013-0349-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, ensure that a proper backflow prevention assembly or air gap is provided at all locations where an actual or potential contamination hazard exists, including, but not limited to the two car washes, the dentist's office and two veterinary clinics, in accordance with 30 TEX. ADMIN. CODE § 290.44;
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.;
 - c. Within 180 days after the effective date of this Agreed Order, refurbish or replace the elevated storage tank and standpipe so that the interior and exterior meet AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43; and
 - d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the

information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/19/13
Date

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

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

4-24-13
Date

RICHARD TURNER
Name (Printed or typed)
Authorized Representative of
City of Jefferson

Mayor
Title

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