

BILATERAL COMPLIANCE AGREEMENT

BETWEEN THE CITY OF ANDREWS, TEXAS (PWS ID No. 0020001)
AND
THE TEXAS WATER COMMISSION

✓ WHEREAS the City of Andrews ("City") and the Texas Water Commission seek to institute a mutual and cooperative program for addressing the levels of naturally occurring fluoride found in the public water supply for the City, and

✓ WHEREAS chemical analysis of water samples obtained by the Texas Department of Health from the City's Public water system on November 5, 1991 contained fluoride at a level of 4.9 milligrams per liter (mg/l), and

WHEREAS this result is consistent with the values historically reported by the Commission, and

✓ WHEREAS this fluoride level exceeds the standard of chemical quality for fluoride of 4.0 mg/l established by the Commission (25 TAC §337.3 (3)) and

WHEREAS this fluoride level also exceeds the recommended secondary constituent level for fluorides of 2.0 mg/l (31 TAC §337.14) and

" POU is approved by EPA...

NOW THEREFORE, in consideration of the mutually beneficial actions described herein, the Commission and the City agree to enter into this Bilateral Compliance Agreement. This Bilateral Compliance Agreement establishes a program for evaluating alternative water sources and treatment technologies for reducing the levels of fluorides in the City's water supply. By entering into this Bilateral Compliance Agreement, the City specifically does not admit to any past or future allegations of wrongdoing or violations of State or Federal standards for drinking water quality.

IN FULFILLMENT OF THIS BILATERAL COMPLIANCE AGREEMENT, the City and the Commission agree as follows:

1. Within 60 days of the date of execution of this Bilateral Compliance Agreement by the City and the Commission, or its successor agency or agencies, the city will conduct a feasibility investigation that will evaluate available alternative water sources and treatment technologies. This evaluation will investigate whether the reduction of fluorides using these sources and technologies is economically reasonable and technically viable. In considering whether an alternative water source or treatment technology is economically reasonable and technically viable, the following criteria, among others may be considered:
 - a. whether the quantity and quality of water provided by the alternative water source or treatment technology is sufficient to meet the projected water needs of the City's water supply system;
 - b. whether the alternative water sources and/or treatment technology can be connected to the City's existing water distribution system and waste disposal systems at a total annualized cost that will not result in an unreasonable increase in water rates to customers of the City's public water supply system;
 - c. whether the alternative water source or the treatment technology, or some combination thereof, will lower the fluoride level of the water in the City's water system to 4.0 mg/l or less at all times and to 2.0 mg/l or less whenever possible; and
 - d. whether the treatment process will result in unreasonable loss of useable water.
2. In the event that there is no economically reasonable and technically viable alternative water source or treatment technology, the City will conduct an updated evaluation of available alternative water sources and treatment technologies at three year intervals following the completion of the evaluation described in Paragraph 1. The updated evaluation will address newly available alternative water sources or treatment technologies, and changed circumstances that may affect the economic reasonableness or technical viability of alternative water sources or treatment technologies previously considered.

3. The City will submit the first report on the investigation of the feasibility of available water sources and treatment technologies to the Commission, or its successor agency or agencies, 180 days following the execution of this Bilateral Compliance Agreement by both the City and the Commission. The City will submit reports of subsequent evaluations, if any, to the Commission, or its successor agency or agencies, on the date of submittal of the first report in each successive third year.
4. Upon identification of an alternative water source or treatment technology that is an economically reasonable and technically viable option, the City will, within 180 days, submit an acceptable written plan to the Commission, or its successor agency or agencies, that provides for the completion of that option within two years from the date that the plan is approved by the Commission, or its successor agency or agencies, unless such deadline is extended by the Executive Director.
5. Until the fluoride concentration in the City's public drinking water supply is reduced to 4.0 mg/l or less, the City will continue to notify its customers, on at least a quarterly basis, of the elevated fluoride level in accordance with the provisions of 25 TAC §337.3 (8).
6. Unless the alternate source or treatment technology is reducing the fluoride concentration to 2.0 mg/l or less at all times, the City will notify its customers, on an annual basis, of the elevated fluoride level in accordance with the provisions of 25 TAC §337.14 (c). This notice shall be issued during the month of May in each calendar year.
7. Until the fluoride concentration in the City's public water system is reduced to 4.0 mg/l or less, it will establish a system for providing water of acceptable quality to customers with children under the age of 14 years. The City shall begin supplying this water within 45 days, unless an extension is granted by the Executive Director, and in adequate quantities to meet the families' needs for cooking and drinking water. The availability of this water will be made the subject of an initial public notice, as well as included in the public notice required in item 5.

8. Provided that the City is in compliance with the terms of this Agreement, the Commission, or its successor agency or agencies, will withhold enforcement actions related to the exceedances of the standard of chemical quality for fluoride established by the Commission in 25 TAC §337.3 (3).

THE PARTIES AGREE FURTHER that, should unforeseen future circumstances indicate a need to alter the above mentioned schedule, the City will notify the Commission, or its successor agency or agencies, immediately so that an amendment to this Bilateral Compliance Agreement can be discussed.

ACCEPTANCE of the terms of this agreement are indicated by signature below.

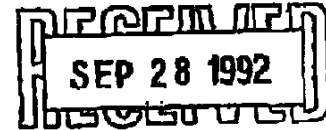
Gary Fleming 10/21/92
Responsible Water System Official Date
CITY OF ANDREWS, TEXAS

Steven E. Walden 1/23/92
Steven E. Walden, R.S., Chief Date
Monitoring and Enforcement Section
Water Utilities Division
Texas Water Commission

John Hall, Chairman
Pam Reed, Commissioner
Peggy Garner, Commissioner



TEXAS WATER COMMISSION
PROTECTING TEXAS' HEALTH AND SAFETY BY PREVENTING AND REDUCING POLLUTION



September 24, 1992

Mr. Len L. Wilson, City Manager
City of Andrews
111 Logsdon
Andrews, Texas 79714-6589

Subject: Public Drinking Water Supply
Bilateral Compliance Agreement
City of Andrews - PWS ID No. 0020001
Andrews County, Texas

Dear Mr. Wilson:

We have enclosed two copies of a Bilateral Compliance Agreement. The Agreement incorporates the revisions which were negotiated during our meeting on May 19, 1992; and corrects the two typographical errors which were noted in the version we sent you last June. We understand that the City has discussed the terms of this Agreement and has found it acceptable. Please have a responsible City official sign the two documents and return one of the documents for our records.

As noted in our June 2, 1992, letter, the City must make an acceptable source of water available to schools with children under the age of 14 for drinking and cooking purposes. This does not mean that the City must deliver it to the schools nor distribute it once it has been delivered. However, the source must be made available.

Please return the signed Agreement to this office by October 31, 1992. Please contact Jack Schulze at (512)834-6662 if you need additional time or if we can be of other assistance.

Sincerely,

Steven E. Walden, R.S., Manager
Monitoring and Enforcement Section
Water Utilities Division

ccs: TWC District 10
Dean Robbins, Director, TWC Water Utilities Division
Mr. Bill Davis, EPA Region 6 Headquarters

P.O. Box 13087 • 1700 North Congress Avenue • Austin, Texas 78711-3087 • 512/463-7830

December 31, 2003

The Texas Natural Resource Conservation Commission (TNRCC) has notified the City of Andrews water system that the drinking water being supplied to customers had exceeded the Maximum Contaminant Level (MCL) for FLUORIDE. The U.S. Environmental Protection Agency (U.S. EPA) has established the MCL for FLUORIDE at 4 mg/L, and has determined that it is a health concern at levels above the MCL. Analysis of drinking water in your community for FLUORIDE indicates a level of 4.8 mg/L.

This is not an emergency. However, some people who drink water containing FLUORIDE in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

You do not need to use an alternative water supply. However, if you have health concerns, you may want to talk to your doctor to get more information about how this may affect you.

We are working to correct the problem. The City of Andrews makes available fluoride reduced water to all families with children under the age of 14 at the building behind City Hall, 111 Logsdon. If you are eligible and desire to participate in this program, bring your clean one-gallon to five-gallon container to fill with the fluoride reduced water. Each family is responsible for obtaining its reduced fluoride water. An area will be provided to rinse your container before filling. There will be no charge for the water.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

For further information contact Larry Fleming at 432/523-4620.

Public Water System ID#0020001

Robert J. Nelson, Chairman
W. B. "Bibi" Marquez, Commissioner
Kathleen Hartnett White, Commissioner
Margaret Hoffman, Executive Director



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 5, 2003

The Honorable Harvey Hilderbrand
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78711-2910

Dear Representative Hilderbrand:

I am writing to provide additional information regarding the agency's adoption of federal drinking water standards for radionuclides and arsenic in Texas. Under federal mandate, the agency has initiated the process for adoption of the federal radionuclide and arsenic rules. This letter is to assure you that the commissioners and I are very aware of and sensitive to the economic hardship that may result to some small water systems. Under state rules, this agency has some leeway in the administration of this program. I intend to fully exercise any and all regulatory flexibility and discretion available to me in the implementation and enforcement of these requirements.

We will take every step possible to assist those water systems with complying with these new requirements. We have identified systems that currently exceed the limits set by the EPA for arsenic and radionuclides. We know that some of those water systems have already started addressing this problem and some have even taken steps, such as using alternative water supplies or reducing production from contaminated sources with naturally occurring micro-levels of contamination, to reduce levels of such contamination.

We are also aware that for some water systems it may be more difficult, even impossible, to find an acceptable alternative water supply or interconnection with neighboring water systems, and that treatment will be their only choice. Agency staff, as well as our current Financial, Managerial and Technical Assistance contractor, Texas Rural Water Association, will assist any of those systems in exploring alternatives and funding options to reach compliance in a reasonable and timely manner.

When a cost effective option is not available, the agency has the authority to enter into bilateral compliance agreements with the water systems. Under such an agreement, the water system would abate its customers of the problems associated with radionuclides and/or arsenic, but continue to provide water service. Enforcement discretion would be exercised until a reasonable and cost effective option becomes available to bring the water system into compliance.

As the agency obtains more detailed information on the costs to the water systems to comply with the radionuclides and arsenic rules, we will provide that information to you. We will also work with you to resolve this issue with the U.S. Environmental Protection Agency. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

Sincerely,

Margaret Hoffman

Margaret Hoffman
Executive Director

cc: The Honorable Frank Madia, Texas Senate
Texas Rural Water Association

P.O. Box 13057 • Austin, Texas 78713-0057 • 512/230-1000 • Internet address: www.tceq.state.tx.us

significant for Andrews!

Did you get a paper?