

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-1755-PWS-E TCEQ ID: RN101274249 CASE NO.: 31302**  
**RESPONDENT NAME: CITY OF GALVESTON**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> the corner of 52<sup>nd</sup> Street and Avenue A (the "main Facility"), with satellite distribution facilities designated as "the 30<sup>th</sup> Street location," "the 59<sup>th</sup> Street location," "the Airport location," "Jamaica Beach," "UTMB," "10-Mile Road," "the Texas A&amp;M location," "the Port of Galveston," and "White Sands," Galveston, Galveston County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 14, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  TCEQ SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223  TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Waste Enforcement Section, MC R-13, (210) 403-4012  TCEQ Regional Contact: Mr. David Livings, Houston Regional Office, MC R-12, (713) 767-3526  Respondent: The Honorable Lyda Thomas, Mayor, City of Galveston, P.O. Box 779, Galveston, Texas 77553-0779  Respondent's Attorney: Brad Castleberry, LLoyd Gosselink Blevins Rochelle &amp; Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> July 25, 2006</p> <p><b>Date of NOE Relating to this Case:</b> August 31, 2006</p> <p><b>Background Facts:</b></p> <p>The EDRP was filed on September 13, 2007. Settlement was achieved and a signed agreed order was received on May 23, 2008.</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>Failed to provide a minimum total capacity of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</li> <li>Failed to provide a minimum elevated storage capacity of 100 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</li> <li>Failed to maintain copies of completed customer service inspections that can be made available to Commission personnel at the time of investigations [30 TEX. ADMIN. CODE §§ 290.46(f)(2) and (f)(3)(E)(iv)].</li> <li>Failed to maintain the 30th Street location in a manner that minimizes the possibility of harboring rodents, insects, and other disease vectors that may cause contamination of the water supply [30 TEX. ADMIN. CODE § 290.46(m)].</li> </ol>	<p><b>Total Assessed:</b> \$12,285</p> <p><b>Total Deferred:</b> \$12,285</p> <p><input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input checked="" type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$0</p> <p>The administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective actions:</p> <ol style="list-style-type: none"> <li>Provided evidence of additional groundwater supplies and contracts for surface water supplies, and developed and submitted a request for an alternative capacity assessment to the Executive Director.</li> <li>Prepared and submitted plans and specifications, which were approved by the Executive Director on or about August 17, 2006, for the construction of a 2.0 MG elevated storage tank.</li> <li>Reorganized filing to ensure that completed customer service inspections are available to Commission personnel at the time of investigations.</li> <li>Constructed improvements to the 30th Street location ground storage tank.</li> <li>Prepared plans and specifications to construct additional improvements to the 30th Street ground storage tank to comply with the roof slope requirements.</li> <li>Equipped the vent openings on the ground storage tank at the 59th Street location with 16-mesh or finer corrosion resistant screening.</li> <li>Posted legible signs at the Airport, Jamaica Beach, White Sands, 10-Mile Road, and UTMB locations, that contain the name of the water supply and an emergency telephone number where a responsible official can be contacted.</li> <li>Repaired the roof of the ground storage tank at the Airport location.</li> <li>Repaired the door latch and locking mechanism on the elevated storage tank at the White Sands location, and repaired the door frame at the 10-mile Road location.</li> <li>Plugged Well Nos. 1A and 18.</li> </ol>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to design and erect the roof of the 30th Street location's concrete ground storage tank in accordance with American Water Works Association ("AWWA") standards so that no water ponds at any point on the roof and so that the roof has a slope of less than 0.75 inches per foot [30 TEX. ADMIN. CODE § 290.43(c)].</p> <p>6. Failed to equip the vent openings on the ground storage tank at the 59th Street location with 16-mesh or finer corrosion resistant screening [30 TEX. ADMIN. CODE § 290.43(c)(1)].</p> <p>7. Failed to post legible signs at the Airport, Jamaica Beach, White Sands, 10-Mile Road, and UTMB locations, that contain the name of the water supply and an emergency telephone number where a responsible official can be contacted [30 TEX. ADMIN. CODE § 290.46(t)].</p> <p>8. Failed to maintain the ground storage tank at the Airport location in a water-tight condition [30 TEX. ADMIN. CODE § 290.46(m)(4)].</p> <p>9. Failed to enclose the elevated tanks at the White Sands and 10-Mile Road locations inside a building or fence designed to prevent intruder access and with doors or gates that are locked whenever the facility is unattended [30 TEX. ADMIN. CODE § 290.43(e)].</p> <p>10. Failed to plug the System's abandoned wells with cement, or to return the wells to a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u)].</p> <p>11. Failed to maintain the concrete sealing block surrounding Well No. 6A [30 TEX. ADMIN. CODE § 290.41(c)(3)(J)].</p> <p>12. Failed to house the System's hypochlorination solution containers and pumps in a secure enclosure to protect them from vandalism and adverse weather conditions [30 TEX. ADMIN. CODE § 290.42(e)(5)].</p>		<p>11. Repaired the concrete sealing block surrounding Well No. 6A.</p> <p>12. Installed doors on the cabinet at Well 13, and installed a door and a roof at Well 16.</p> <p>13. Reconstituted enforcement of the City's backflow prevention ordinance plumbing ordinance or service agreement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted and that backflow prevention assemblies are properly installed at all connections where the potential for contamination exists.</p> <p><b>Ordering Provision(s)</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Implement and complete a Supplemental Environmental Project (SEP) (See "Attachment A").</li> <li>2. Within 90 days, repair or replace the roof of the 30<sup>th</sup> Street location's concrete ground storage tank so that it conforms to AWWA standards such that no water ponds at any point on the roof and the roof has a slope of less than 0.75 inches per foot.</li> <li>3. Within 730 days, construct sufficient elevated storage capacity</li> </ol>

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
13. Failed to enforce a plumbing ordinance or service agreement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted and that backflow prevention assemblies are properly installed at all connections where the potential for contamination exists [30 TEX. ADMIN. CODE §§ 290.44(h)(1)(A) and 290.46(i)].		

Attachment A  
Docket Number: 2006-1755-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** City of Galveston

**Penalty Amount:** Twelve thousand two hundred eighty-five dollars (\$12,285)

**SEP Amount:** Twelve thousand two hundred eighty-five dollars (\$12,285)

**Type of SEP:** Pre-approved

**Third-Party Recipient:** Trust for Public Land – *Galveston Bay Acquisition and Conservation Program*

**Location of SEP:** Galveston County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Trust for Public Land (TPL) for its *Galveston Bay Acquisition and Conservation Program*. Specifically, the contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the TPL and the Texas Commission on Environmental Quality*. SEP funds will be used solely for the purchase price of the land. The property will be transferred to a public agency or nonprofit organization, which will be the ultimate fee title holder and permanent steward for the property. TPL will ensure that each property is encumbered with a conservation easement which will preserve the property into perpetuity. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. ~~The SEP will be done in accordance with all federal, state and local environmental laws and regulations.~~

The Respondent certifies that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by the acquisition and subsequent transfer of land in Galveston Bay to a non profit organization whose mission will be to preserve and restore the land. The project will improve water quality, conserve existing wetlands and other special habitats, and increase public access to the Bay.

A key environmental benefit for acquisitions along Galveston Bay system waterways would be maintaining/restoring stream buffers that will help filter contaminants before they reach the water, while providing wildlife habitat. Forested buffers provide the additional benefit of improving air quality through the removal of carbon dioxide, ozone, and sulfur dioxide. Acquiring habitat along the bay front or along streams would also provide a buffer for coastal wetlands, preventing their further degradation, and ensuring greater protection of uplands from storm surge and other erosional forces.

Among the important fish and shellfish species dependent on the habitats of the Bay system are: brown and white shrimp, oysters, blue crabs, southern flounder, red drum, and spotted seatrout. Important bird species that find forage, roosting and/or nesting sites in the area include resident and migratory waterbirds and waterfowl, Neotropical songbirds such as: the endangered brown Pelican, Reddish Egret and White-faced Ibis, Sandhill Cranes, Great Blue Heron, Roseate Spoonbill, Scarlet Tanager, Indigo Bunting, and Prothonotary Warbler, among others.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Program Director  
The Trust for Public Land  
Houston-Galveston Office  
1113 Vine Street, Suite 200  
Houston, TX 77002

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEO SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive

Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	05-Sep-2006	Screening	27-Sep-2006	EPA Due	
	PCW	05-Mar-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Galveston
Reg. Ent. Ref. No.	RN101274249
Facility/Site Region	12-Houston
Major/Minor Source	Major Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	31302	No. of Violations	13
Docket No.	2006-1755-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		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** 5% Enhancement Subtotals 2, 3, & 7

Notes: The adjustment is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action.

**Culpability** No  0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The Respondent does not meet the good faith effort criteria.

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

Total EB Amounts	\$6,412	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$82,650	

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 0% Reduction Adjustment

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

Notes: No deferral is offered because settlement was not achieved during the 60-day settlement period.

**PAYABLE PENALTY**

09-12-07.qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	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</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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The adjustment is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%**

09-12-07.gpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07-gpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment	\$20,000	25-Jul-2006	01-Oct-2007	1.2	\$79	\$1,582	\$1,661
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to increase the total capacity to 0.6 gpm per connection, calculated from the date of the investigation to the estimated date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$20,000** TOTAL **\$1,661**

09-12-07.gpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07-gpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] Public Water Supply  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

<b>Item</b>	<b>Item</b>	<b>Date</b>	<b>Final</b>	<b>Yrs</b>	<b>Interest</b>	<b>Onetime</b>	<b>EB</b>
<b>Description</b>	<b>Cost</b>	<b>Required</b>	<b>Date</b>		<b>Saved</b>	<b>Costs</b>	<b>Amount</b>

No commas or \$

**Delayed Costs**

Equipment	\$50,000	25-Jul-2006	01-Oct-2007	1.2	\$198	\$3,954	\$4,152
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to increase the elevated storage capacity to a minimum of 100 gallons per connection, 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$50,000**

**TOTAL \$4,152**

09:12:07 gpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2) and (f)(3)(E)(iv)

Secondary Rule Cite(s)

Violation Description

Failure to maintain copies of completed customer service inspections that can be made available to Commission personnel at the time of investigations.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			25%

Matrix Notes

100% of the rule requirements were not met.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$76

Violation Final Penalty Total \$263

This violation Final Assessed Penalty (adjusted for limits) \$263

09-12-07 cpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: There are no delayed costs associated with this violation.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$150	25-Jul-2006	18-Jan-2007	0.5	\$4	\$73	\$76
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: The avoided costs includes the annual amount to maintain customer service inspection records, calculated from the date of the investigation to the date of compliance.

Approx. Cost of Compliance

**TOTAL**

09-12-07 qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to maintain the 30th Street location in a manner that minimizes the possibility of harboring rodents, insects, and other disease vectors that may cause contamination of the water supply. Specifically, numerous cockroaches were observed inside the 30th Street location's concrete ground storage tank on the date of the investigation.

Base Penalty

>> Environmental, Property and Human Health Matrix

Harm

OR

Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

The cockroaches inside the ground storage tank indicate that customers of the water supply have been exposed to an insignificant amount of contaminants which do not exceed levels that are protective of human health.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<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

One quarterly event is recommended from the date of the investigation, July 25, 2006, to the date of screening, September 27, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07 apw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$3,000	25-Jul-2006	18-Jan-2007	0.5	\$5	\$97	\$102
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to repair the ground storage tank at the 38th Street Facility and make it water-tight such that insects and other contaminants can no longer enter the water supply, calculated from the date of the investigation to the date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance

TOTAL

09-12-07.qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

If AWWA standards are not utilized in the design and construction of the ground storage tank, the sanitary nature of the drinking water could be compromised, exposing customers of the water supply to significant amounts of contamination at levels that are not protective of human health.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<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

One quarterly event is recommended from the date of the investigation, July 25, 2006, to the date of screening, September 27, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07 gpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	25-Jul-2006	01-May-2007	0.8	\$3	\$51	\$54
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to repair the roof on the storage tank such that it meets AWWA standards, 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance

**TOTAL**

09-12-07.qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to equip the vent openings on the ground storage tank at the 59th Street location with 16-mesh or finer corrosion resistant screening. Specifically, two holes were noted in the roof vent screens.

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 type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

If the mesh screening on the vent openings is not properly maintained, customers of the water supply could be exposed to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07.dpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment	\$50	25-Jul-2006	18-Jan-2007	0.5	\$0	\$2	\$2
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to repair or replace the mesh screening on the roof vents, calculated from the date of the investigation to the date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$50**

**TOTAL \$2**

09-12-07 qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07 apw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	25-Jul-2006	18-Jan-2007	0.5	\$2	\$32	\$34
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs includes the amount to post proper signs at the Airport, Jamaica Beach, White Sands, 10-Mile Road, and UTMB Facilities, calculated from the date of the investigation to the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance

**TOTAL**

09-12-07.qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

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="25%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07-epw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	25-Jul-2006	18-Jan-2007	0.5	\$2	\$32	\$34
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to repair the roof of the ground storage tank at the Airport Facility such that it is in a water-tight condition, calculated from the date of the investigation to the date of compliance.

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b> ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)				
Disposal	0.0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0
Supplies/equipment	0.0	\$0	\$0	\$0
Financial Assurance [2]	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0	\$0	\$0	\$0
Other (as needed)	0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$1,000** TOTAL **\$34**

09-12-07.qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 9

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.43(e)

Secondary Rule Cite(s)

Violation Description

Failure to enclose the elevated tanks at the White Sands and 10-Mile Road locations inside a building or fence designed to prevent intruder access and with doors or gates that are locked whenever the facility is unattended. Specifically, the door latch and locking mechanism on the elevated tower were corroded and the door could not be secured at the White Sands location and the door frame was broken, preventing the door from being secured at the 10-mile Road location.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

If the two elevated tanks are not secure, customers of the water supply could be exposed to significant amounts of contaminants introduced by trespassers, which would not exceed levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 2

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$500

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

09-12-07 apw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] Public Water Supply  
 Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment	\$200	25-Jul-2006	18-Jan-2007	0.5	\$0	\$6	\$7
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the amount to purchase and install new locks for the gates protecting the elevated storage tanks, calculated from the date of the investigation to the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$200**

**TOTAL \$7**

09-12-07.gpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 10

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

Secondary Rule Cite(s)

Violation Description Failure to plug the water system's abandoned wells with cement or to return the wells to a non-deteriorated condition. Specifically, Well Nos. 1A and 18 were deteriorated and inoperable.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	X			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes If the abandoned wells are not properly plugged or returned to a non-deteriorated condition, customers of the water supply could be exposed a significant amount of contaminants which could exceed levels that are protective of human health.

Adjustment -\$500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 6

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Six monthly events are recommended (three events for each of the two wells); calculated from the date of the investigation, July 25, 2006, to the date of screening, September 27, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$3,150

This violation Final Assessed Penalty (adjusted for limits) \$3,150

09-12-07 cpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] Public Water Supply  
 Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,000	25-Jul-2006	01-May-2007	0.8	\$5	\$102	\$107
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to plug Well Nos. 1A and 18 with cement or to return the wells to a non-deteriorated condition, 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				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$2,000** TOTAL **\$107**

09-12-07.qpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

09-12-07 rpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] Public Water Supply  
 Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$250	25-Jul-2006	18-Jan-2007	0.5	\$0	\$8	\$8
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to repair or replace the concrete sealing block surrounding Well Number 6A, calculated from the date of the investigation to the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$250** TOTAL **\$8**

09-12-07.gpw

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 12

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.42(e)(5)

Secondary Rule Cite(s)

Violation Description Failure to house the water system's hypochlorination solution containers and pumps in a secure enclosure to protect them from vandalism and adverse weather conditions. Specifically, the doors were missing from the cabinet at Well 13, and the housing at Well 16 was missing a door and a roof

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

Matrix Notes Without proper housing and containment for chemicals and equipment, employees and customers of the water supply could be exposed to significant amounts of water treatment chemicals, which would not exceed levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the date of the investigation, July 25, 2006, to the date of screening, September 27, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$263

This violation Final Assessed Penalty (adjusted for limits) \$263

09-12-07 cpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] Public Water Supply  
 Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings	\$2,000	25-Jul-2006	18-Jan-2007	0.5	\$3	\$65	\$68
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to properly house the hypochlorination solution containers and pumps, calculated from the date of the investigation to the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$2,000**

**TOTAL \$68**

Screening Date 27-Sep-2006

Docket No. 2006-1755-PWS-E

PCW

Respondent City of Galveston

Policy Revision 2 (September 2002)

Case ID No. 31302

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101274249

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 13

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.44(h)(1)(A) and 290.46(i)

Secondary Rule Cite(s)

Violation Description Failure to establish and enforce a plumbing ordinance or service agreement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted and that backflow prevention assemblies are properly installed at all connections where the potential for contamination exists. Specifically, the City of Galveston failed to insure that backflow prevention assemblies at the University of Texas Medical Branch (UTMB), Texas A&M Campus, and the Port of Galveston locations have been installed.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 50%
	Potential	X			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent

Matrix Notes Without the backflow prevention assemblies installed, backflow and siphonage could occur and customers of the water supply could be exposed to contaminants at levels that are protective of human health.

Adjustment -\$500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 9

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,500

Nine monthly events are recommended, (three events for each of the three locations) calculated from the date of the investigation, July 25, 2006, to the date of screening, September 27, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$4,725

This violation Final Assessed Penalty (adjusted for limits) \$4,725

09-12-07-mpw

### Economic Benefit Worksheet

Respondent City of Galveston  
 Case ID No. 31302  
 Reg. Ent. Reference No. RN101274249  
 Media [Statute] Public Water Supply  
 Violation No. 13

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$2,000	26-Jul-2006	01-May-2007	0.8	\$5	\$102	\$107
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the amount to institute and begin enforcing a plumbing ordinance and regulations that will insure that cross connections and backflow cannot occur, calculated from the date of the investigation to the estimated date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance **\$2,000**

**TOTAL \$107**

## Compliance History

Customer/Respondent/Owner-Operator:	CN600241376	City of Galveston	Classification: AVERAGE	Rating: 4.14
Regulated Entity:	RN101274249	CITY OF GALVESTON	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0840003	
	AIR NEW SOURCE PERMITS	PERMIT	2280	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	GB0017C	
	WATER LICENSING	LICENSE	0840003	
Location:	52ND ST. & AVENUE A		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	October 02, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 02, 2001 to October 02, 2006			

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

Name: Rebecca Clausewitz Phone: (210) 403-4012

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- |   |            |          |
|---|------------|----------|
| 1 | 08/31/2006 | (510796) |
| 2 | 05/27/2003 | (29980)  |
| 3 | 01/24/2005 | (342903) |
| 4 | 06/01/2005 | (394167) |

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

- |              |  |          |                          |
|--------------|--|----------|--------------------------|
| Date:        | 01/24/2005   | (342903) |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(u)   |          |                          |
| Description: | Failure to plug well Nos. 1, 1A, 2, 2B, 3, 4, 5, 6, 7, 8, 10A and 15, or test them every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition. |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.44(h)(1)[G]   |          |                          |
|              | 30 TAC Chapter 290, SubChapter D 290.46(m)   |          |                          |
| Description: | Failure to maintain the Alto Loma Pump Station and the Pelican Island water plant in operating condition and ensure that no actual or potential contamination hazard exists.                         |          |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.44(d)[G]  |          |                          |
| Description: | Failure to maintain adequate pressure in distribution.   |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(2)  |          |                          |

Description:	Failure to properly secure the hatch on the GST.	Classification: Minor
Self Report?	NO	
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)[G]	
Description:	Failure to maintain facility fencing.	Classification: Moderate
Self Report?	NO	
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)	
Description:	Failure to fix the leaks in the GST.	Classification: Moderate
Self Report?	NO	
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(4)(C) 30 TAC Chapter 290, SubChapter D 290.46(i)	
Description:	Failure to have a backflow program.	Classification: Moderate
Self Report?	NO	
Citation:	30 TAC Chapter 290, SubChapter D 290.46(j)[G]	
Description:	Failure to have a Customer Service Inspection Program.	

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  
THE CITY OF GALVESTON;  
RN101274249

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2006-1755-PWS-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the the City of Galveston ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, represented by Brad B. Castleberry of the law firm of Lloyd Gosselink Blevins Rochelle & Townsend, P.C., appear before the Commission and together stipulate that:

1. The City owns and operates a public water system located at the corner of 52<sup>nd</sup> Street and Avenue A (the "main Facility"), with satellite distribution facilities designated as and commonly referred to by the City as "the 30<sup>th</sup> Street location", "the 59<sup>th</sup> Street location", "the Airport location", "Jamaica Beach", "UTMB", "10-Mile Road", "the Texas A&M location," "the Port of Galveston," and "White Sands", all located in Galveston County, Texas (collectively, the "System").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE § 7.070, and TEX. HEALTH & SAFETY CODE § 341.049. ~~The Commission has jurisdiction of this matter pursuant to TEX. HEALTH & SAFETY CODE § 341.031~~ because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about September 5, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of twelve thousand two hundred eighty-five dollars (\$12,285.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Twelve thousand two hundred eighty-five dollars (\$12,285.00) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A, incorporated herein by reference. the City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
7. 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.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.
12. The Executive Director recognizes that the City has implemented the following corrective measures in response to this enforcement action:
  - a. Provided evidence of additional groundwater supplies and contracts for surface water supplies, as well as developed and submitted a request for an alternative capacity assessment to the Executive Director pursuant to the provisions of 30 TEX. ADMIN. CODE § 290.45(g);

- b. Prepared and submitted plans and specifications, which were approved by the Executive Director on or about August 17, 2006, for the construction of a 2.0 MG elevated storage tank;
- c. Reorganized filing to ensure that completed customer service inspections are available to Commission personnel at the time of investigations;
- d. Constructed improvements to the 30th Street location ground storage tank to comply with the provisions of 30 TEX. ADMIN. CODE § 290.46(m);
- e. Prepared plans and specifications to construct additional improvements to the 30th Street ground storage tank to comply with the roof slope requirements of 30 TEX. ADMIN. CODE § 290.43(c);
- f. Equipped the vent openings on the ground storage tank at the 59th Street location with 16-mesh or finer corrosion resistant screening;
- g. Posted legible signs at the Airport, Jamaica Beach, White Sands, 10-Mile Road, and UTMB locations, that contain the name of the water supply and an emergency telephone number where a responsible official can be contacted;
- h. Repaired the roof of the ground storage tank at the Airport location;
- i. Repaired the door latch and locking mechanism on the elevated storage tank at the White Sands location, and repaired the door frame at the 10-mile Road location;
- j. Plugged Well Nos. 1A and 18;
- k. ~~Repaired the concrete sealing block surrounding Well No. 6A;~~
- l. Installed doors on the cabinet at Well 13, and installed a door and a roof at Well 16; and
- m. Reconstituted enforcement of the City's backflow prevention ordinance plumbing ordinance or service agreement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted and that backflow prevention assemblies are properly installed at all connections where the potential for contamination exists.

## II. ALLEGATIONS

The City is alleged to have violated:

- a. 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), by failing to provide a minimum total capacity of 0.6 gallons per minute (“gpm”) per connection. Specifically, with 34,676 connections, the System should provide a minimum total capacity of 20,805.6 gpm; however the System currently provides only 10,416.6 gpm, which is approximately 50% deficient;
- b. 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), by failing to provide a minimum elevated storage capacity of 100 gallons per connection. With an adjusted connection count of 33,049 connections, the System must provide a minimum elevated storage capacity of 3.305 million gallons (“MG”); however the System currently provides an elevated storage capacity of 2.5 MG, which is 24% deficient;
- c. 30 TEX. ADMIN. CODE §§ 290.46(f)(2) and (f)(3)(E)(iv), by failing to maintain copies of completed customer service inspections that can be made available to Commission personnel at the time of investigations;
- d. 30 TEX. ADMIN. CODE § 290.46(m), by failing to maintain the 30th Street location in a manner that minimizes the possibility of harboring rodents, insects, and other disease vectors that may cause contamination of the water supply. Specifically, numerous cockroaches were observed inside the 30th Street location’s concrete ground storage tank;
- e. 30 TEX. ADMIN. CODE § 290.43(c), by failing to design and erect the roof of the 30th Street location’s concrete ground storage tank in accordance with American Water Works Association (“AWWA”) standards so that no water ponds at any point on the roof and so that the roof has a slope of less than 0.75 inches per foot;
- f. 30 TEX. ADMIN. CODE § 290.43(c)(1), by failing to equip the vent openings on the ground storage tank at the 59th Street location with 16-mesh or finer corrosion resistant screening. Specifically, two holes were noted in the roof vent screens;
- g. 30 TEX. ADMIN. CODE § 290.46(t), by failing to post legible signs at the Airport, Jamaica Beach, White Sands, 10-Mile Road, and UTMB locations, that contain the name of the water supply and an emergency telephone number where a responsible official can be contacted. Specifically, the signs posted at the facilities were faded and not legible;

- h. 30 TEX. ADMIN. CODE § 290.46(m)(4), by failing to maintain the ground storage tank at the Airport location in a water-tight condition. Specifically, severe pitting and a hole in the roof of the ground storage tank were noted;
- i. 30 TEX. ADMIN. CODE § 290.43(e), by failing to enclose the elevated tanks at the White Sands and 10-Mile Road locations inside a building or fence designed to prevent intruder access and with doors or gates that are locked whenever the facility is unattended. Specifically, the door latch and locking mechanism on the elevated tower were corroded and the door could not be secured at the White Sands location, and the door frame was broken, preventing the door from being secured at the 10-mile Road location;
- j. 30 TEX. ADMIN. CODE § 290.46(u), by failing to plug the System's abandoned wells with cement, or to return the wells to a non-deteriorated condition. Specifically, Well Nos. 1A and 18 were deteriorated and inoperable.
- k. 30 TEX. ADMIN. CODE § 290.41(c)(3)(J), by failing to maintain the concrete sealing block surrounding Well No. 6A. Specifically, the sealing block was cracked;
- l. 30 TEX. ADMIN. CODE § 290.42(e)(5), by failing to house the System's hypochlorination solution containers and pumps in a secure enclosure to protect them from vandalism and adverse weather conditions. Specifically, the doors were missing from the cabinet at Well 13, and the housing at Well 16 was missing a door and a roof; and
- m. 30 TEX. ADMIN. CODE §§ 290.44(h)(1)(A) and 290.46(i), by failing to enforce a plumbing ordinance or service agreement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted and that backflow prevention assemblies are properly installed at all connections where the potential for contamination exists. Specifically, the City failed to insure that backflow prevention assemblies at the UTMB, Texas A&M, and the Port of Galveston locations have been installed.

### III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

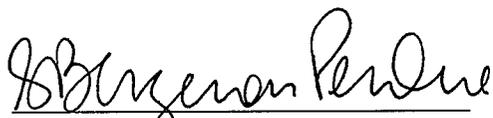
1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here.
2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067 and as set forth in Section I, Paragraph 6, above. twelve thousand two hundred eighty-five dollars (\$12,285.00) of the assessed administrative penalty shall be offset with the condition that the City implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall undertake the following Technical Requirements:
  - a. Within 90 days after the effective date of this Agreed Order, the City shall repair or replace the roof of the 30<sup>th</sup> Street location's concrete ground storage tank so that it conforms to AWWA standards such that no water ponds at any point on the roof and the roof has a slope of less than 0.75 inches per foot, in accordance with 30 TEX. ADMIN. CODE § 290.43.
  - b. Within 730 days after the effective date of this Agreed Order, the City shall have constructed sufficient elevated storage capacity in accordance with the provisions of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the System operations referenced in this Agreed Order.
5. 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City 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.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, 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

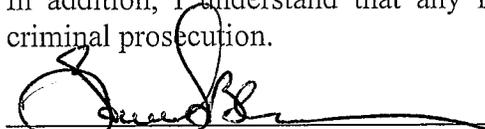
7/10/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 my failure to comply with the Ordering Provisions in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on the City's compliance history;
- Greater scrutiny of any permit applications submitted by the City;
- 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 against the City;
- Automatic referral to the Attorney General's Office of any future enforcement actions against the City; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

May 23, 2008  
Date

Steve LeBlanc  
Name (Printed or typed)  
Authorized representative of the City of Galveston

City Manager  
Title

**Attachment A**  
**Docket Number: 2006-1755-PWS-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Galveston
<b>Penalty Amount:</b>	Twelve thousand two hundred eighty-five dollars (\$12,285)
<b>SEP Amount:</b>	Twelve thousand two hundred eighty-five dollars (\$12,285)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	Trust for Public Land – <i>Galveston Bay Acquisition and Conservation Program</i>
<b>Location of SEP:</b>	Galveston County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute to the Trust for Public Land (TPL) for its *Galveston Bay Acquisition and Conservation Program*. Specifically, the contribution will be used in accordance with the ***Supplemental Environmental Project Agreement between the TPL and the Texas Commission on Environmental Quality***. SEP funds will be used solely for the purchase price of the land. The property will be transferred to a public agency or nonprofit organization, which will be the ultimate fee title holder and permanent steward for the property. TPL will ensure that each property is encumbered with a conservation easement which will preserve the property into perpetuity. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by the acquisition and subsequent transfer of land in Galveston Bay to a non profit organization whose mission will be to preserve and restore the land. The project will improve water quality, conserve existing wetlands and other special habitats, and increase public access to the Bay.

A key environmental benefit for acquisitions along Galveston Bay system waterways would be maintaining/restoring stream buffers that will help filter contaminants before they reach the water, while providing wildlife habitat. Forested buffers provide the additional benefit of improving air quality through the removal of carbon dioxide, ozone, and sulfur dioxide. Acquiring habitat along the bay front or along streams would also provide a buffer for coastal wetlands, preventing their further degradation, and ensuring greater protection of uplands from storm surge and other erosional forces.

Among the important fish and shellfish species dependent on the habitats of the Bay system are: brown and white shrimp, oysters, blue crabs, southern flounder, red drum, and spotted seatrout. Important bird species that find forage, roosting and/or nesting sites in the area include resident and migratory waterbirds and waterfowl, Neotropical songbirds such as: the endangered brown Pelican, Reddish Egret and White-faced Ibis, Sandhill Cranes, Great Blue Heron, Roseate Spoonbill, Scarlet Tanager, Indigo Bunting, and Prothonotary Warbler, among others.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Program Director  
The Trust for Public Land  
Houston-Galveston Office  
1113 Vine Street, Suite 200  
Houston, TX 77002

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive

Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.