

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-0417-PWS-E **TCEQ ID:** RN101260115 **CASE NO.:** 35519  
**RESPONDENT NAME:** Custom Water Co., L.L.C.

|  |   |  |
|--|---|--|
| <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> Montague Water System, 106 Alamo Road, Montague, Montague County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input 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 location.</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 October 20, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Tel Croston, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5717; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Edward A. Fenoglio, President and Owner/Operator, Custom Water Co., L.L.C., 146 Alamo Road, Montague, Texas 76251<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|---|--|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 1, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 2, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to develop and maintain records of water work operations and maintenance activities [30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)].</p> <p>2) Failure to provide a ground storage tank that meets American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(e)(8) and 290.43(e)(2)].</p> <p>3) Failure to submit disinfection level quarterly operating reports ("DLQORs") to the TCEQ by the tenth day of the month following the reporting period [30 TEX. ADMIN. CODE § 290.110(e)(4)].</p> <p>4) Failure to provide a properly constructed intruder-resistant fence around two ground storage tanks [30 TEX. ADMIN. CODE § 290.43(e)].</p> | <p><b>Total Assessed:</b> \$3,737</p> <p><b>Total Deferred:</b> \$747<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$190 (remaining \$2,800 due in 28 monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, begin compiling and maintaining properly completed monthly water works operation reports.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance that demonstrates compliance with Ordering Provision a.</p> <p>c. Within 60 days after the effective date of this Agreed Order, enclose the ground storage tanks with an intruder resistant fence.</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance that demonstrates compliance with Ordering Provision c.</p> <p>e. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Compile and begin submitting DLQORs to the TCEQ by the 10<sup>th</sup> day of the month at the beginning of each quarter; and</p> <p>ii. Replace the ground storage tanks with tanks that meet AWWA standards.</p> <p>f. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e.</p> |

Additional ID No(s): 1690004



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

|              |          |             |           |            |         |
|--------------|----------|-------------|-----------|------------|---------|
| <b>DATES</b> | Assigned | 11-Feb-2008 |           |            |         |
|              | PCW      | 12-Mar-2008 | Screening | 7-Mar-2008 | EPA Due |

|  |                          |                    |       |
|--|--------------------------|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                          |                    |       |
| Respondent                             | Custom Water Co., L.L.C. |                    |       |
| Reg. Ent. Ref. No.                     | RN101260115              |                    |       |
| Facility/Site Region                   | 3-Abilene                | Major/Minor Source | Minor |

|                         |                     |                   |                    |
|-------------------------|---------------------|-------------------|--------------------|
| <b>CASE INFORMATION</b> |                     |                   |                    |
| Enf./Case ID No.        | 35519               | No. of Violations | 4                  |
| Docket No.              | 2008-0417-PWS-E     | Order Type        | 1660               |
| Media Program(s)        | Public Water Supply | Enf. Coordinator  | Tel Croston        |
| 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** \$2,500

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 10% Enhancement **Subtotals 2, 3, & 7** \$250

Notes: The penalty enhancement is due to two Notices of Violations (NOV) for the same or similar violations issued in the past five years.

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

Notes: The Respondent does not meet the culpability criteria.

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

|               |            |                               |
|---------------|------------|-------------------------------|
|               | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary |            |                               |
| Ordinary      |            |                               |
| N/A           | X          | (mark with x)                 |

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

**Good Faith Effort to Comply** 0% Enhancement\* **Subtotal 6**

|                            |          |                                   |
|----------------------------|----------|-----------------------------------|
| Total EB Amounts           | \$5,887  | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$19,100 |                                   |

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$2,750

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 36% **Adjustment** \$987

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

**Final Penalty Amount** \$3,737

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$3,737

**DEFERRAL** 20% Reduction **Adjustment** -\$747

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$2,990

Screening Date 7-Mar-2008

Docket No. 2008-0417-PWS-E

PCW

Respondent Custom Water Co., L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 35519

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101260115

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

## Compliance History Worksheet

## &gt;&gt; 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<br>(number of NOVs meeting criteria)   | 2                 | 10%     |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 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 (number of judgements or consent decrees meeting criteria)                                       | 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 (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 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 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 10%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

The penalty enhancement is due to two Notices of Violations (NOV) for the same or similar violations issued in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 10%

|  |   |            |
|--|---|------------|
| <b>Screening Date</b> 7-Mar-2008           | <b>Docket No.</b> 2008-0417-PWS-E   | <b>PCW</b> |
| <b>Respondent</b> Custom Water Co., L.L.C. | <i>Policy Revision 2 (September 2002)</i>   |            |
| <b>Case ID No.</b> 35519                   | <i>PCW Revision February 29, 2008</i>   |            |
| <b>Reg. Ent. Reference No.</b> RN101260115 |   |            |
| <b>Media [Statute]</b> Public Water Supply |   |            |
| <b>Enf. Coordinator</b> Tel Croston        |   |            |
| <b>Violation Number</b>                    | 1   |            |
| <b>Rule Cite(s)</b>                        | 30 Tex. Admin. Code § 290.46(f)(2) and 290.46(f)(3)   |            |
| <b>Violation Description</b>               | Failed to develop and maintain records of water work operations and maintenance activities. |            |
| <b>Base Penalty</b>                        |   | \$1,000    |

>> Environmental, Property and Human Health Matrix

|    |                |                      |                      |  |                      |
|----|----------------|----------------------|----------------------|--|----------------------|
| OR | <b>Harm</b>    |                      |                      |  |                      |
|    | <b>Release</b> | <b>Major</b>         | <b>Moderate</b>      |  | <b>Minor</b>         |
|    | Actual         | <input type="text"/> | <input type="text"/> |  | <input type="text"/> |
|    | Potential      | <input type="text"/> | <input type="text"/> | <input type="text"/>                           |                      |
|    |                |                      |                      | <b>Percent</b> <input type="text" value="0%"/> |                      |

>> Programmatic Matrix

|                     |   |                      |                      |   |
|---------------------|---|----------------------|----------------------|---|
|                     | <b>Falsification</b>                                |                      |                      |   |
|                     | <b>Major</b>  | <b>Moderate</b>      | <b>Minor</b>         |   |
|                     | <input type="text" value="x"/>                      | <input type="text"/> | <input type="text"/> |   |
|                     |   |                      |                      | <b>Percent</b> <input type="text" value="10%"/> |
| <b>Matrix Notes</b> | Failed to comply with 100% of the rule requirement. |                      |                      |   |

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

|                                |              |                                |
|--------------------------------|--------------|--------------------------------|
| <i>mark only one with an 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 type="text" value="x"/> |

**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)**

## Economic Benefit Worksheet

**Respondent:** Custom Water Co., L.L.C.

**Case ID No.:** 35519

**Reg. Ent. Reference No.:** RN101260115

**Media:** Public Water Supply

**Violation No.:** 1

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

|                          |       |             |             |     |      |     |      |
|--------------------------|-------|-------------|-------------|-----|------|-----|------|
| Equipment                |       |             |             | 0.0 | \$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    | \$300 | 16-Feb-2005 | 30-Sep-2008 | 3.6 | \$54 | n/a | \$54 |
| 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 compile and maintain monthly water work operation records, calculated from the date of the original 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**

**Approx. Cost of Compliance**

\$300

**TOTAL**

\$54

|  |   |            |
|--|---|------------|
| <b>Screening Date</b> 7-Mar-2008           | <b>Docket No.</b> 2008-0417-PWS-E   | <b>PCW</b> |
| <b>Respondent</b> Custom Water Co., L.L.C. | <small>Policy Revision 2 (September 2002)</small>   |            |
| <b>Case ID No.</b> 35519                   | <small>PCW Revision February 29, 2008</small>   |            |
| <b>Reg. Ent. Reference No.</b> RN101260115 |   |            |
| <b>Media [Statute]</b> Public Water Supply |   |            |
| <b>Enf. Coordinator</b> Tel Croston        |   |            |
| <b>Violation Number</b>                    | 2   |            |
| <b>Rule Cite(s)</b>                        | 30 Tex. Admin. Code § 290.43(c)(8) and 290.43(c)(2)   |            |
| <b>Violation Description</b>               | Failed to provide a ground storage tank that meets American Water Works Association ("AWWA") standards. Specifically, at the time of the record review, it was documented that the three storage tanks were not designed and fabricated in accordance with current AWWA standards, did not have 30 inch roof access hatches and were not painted in accordance with AWWA standards. |            |
| <b>Base Penalty</b>                        |   | \$1,000    |

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

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

**>> Programmatic Matrix**

|  |                          |                          |                          |                          |  |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--|
|  | <b>Falsification</b>     | Major                    | Moderate                 | Minor                    |  |
|  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |  |
|  |                          |                          |                          |                          | <b>Percent</b> <input type="text" value="0%"/> |

**Matrix Notes**  
 Failure to provide ground storage tanks that are certified to meet AWWA standards could compromise the sanitary nature of the drinking water, exposing customers of the water supply to significant amounts of contaminants that would not exceed levels protective of human health.

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

|  |              |                          |
|--|--------------|--------------------------|
| <small>mark only one with an x</small> | daily        | <input type="checkbox"/> |
|  | monthly      | <input type="checkbox"/> |
|  | quarterly    | x                        |
|  | semiannual   | <input type="checkbox"/> |
|  | annual       | <input type="checkbox"/> |
|  | single event | <input type="checkbox"/> |

**Violation Base Penalty**

Three quarterly events (one for each tank) are recommended, calculated from the date of the record review, February 1, 2008, to the date of screening, March 7, 2008.

**Economic Benefit (EB) for this violation      Statutory Limit Test**

**Estimated EB Amount**       **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Custom Water Co., L.L.C.  
**Case ID No.** 35519  
**Reg. Ent. Reference No.** RN101260115  
**Media** Public Water Supply  
**Violation No.** 2

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

|                          |          |             |             |     |       |         |         |
|--------------------------|----------|-------------|-------------|-----|-------|---------|---------|
| Equipment                |          |             |             | 0.0 | \$0   | \$0     | \$0     |
| Buildings                |          |             |             | 0.0 | \$0   | \$0     | \$0     |
| Other (as needed)        |          |             |             | 0.0 | \$0   | \$0     | \$0     |
| Engineering/construction | \$15,000 | 16-Feb-2005 | 31-Dec-2008 | 3.9 | \$194 | \$3,874 | \$4,068 |
| 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

Delayed costs include the estimated amount to replace the tanks with tanks meeting AWWA standards, calculated from the date of the original 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

Approx. Cost of Compliance

\$15,000

**TOTAL**

\$4,068

**Screening Date** 7-Mar-2008 **Docket No.** 2008-0417-PWS-E **PCW**  
**Respondent** Custom Water Co., L.L.C. *Policy Revision 2 (September 2002)*  
**Case ID No.** 35519 *PCW Revision February 29, 2008*  
**Reg. Ent. Reference No.** RN101260115  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Tel Croston

**Violation Number**   
**Rule Cite(s)**   
**Violation Description** Failed to submit disinfection level quarterly operating reports (DLQORs) to the TCEQ by the tenth day of the month following the reporting period. Specifically, at the time of the record review it was documented that no DLQORs had been submitted since January 2004.

**Base Penalty**

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

| OR | Release   | Harm                 |                      |                      | Percent                         |
|----|-----------|----------------------|----------------------|----------------------|---------------------------------|
|    |           | Major                | Moderate             | Minor                |                                 |
|    | Actual    | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
|    | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |                                 |

**>> Programmatic Matrix**

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

**Matrix Notes** Failed to comply with 100% of the rule requirement.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

mark only one with an 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="text" value="x"/> |

**Violation Base Penalty**

Sixteen single events are recommended (one for each each report).

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent:** Custom Water Co., L.L.C.  
**Case ID No.:** 35519  
**Reg. Ent. Reference No.:** RN101260115  
**Media:** Public Water Supply  
**Violation No.:** 3

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

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

**Delayed Costs**

|                          |  |  |  |     |     |     |     |
|--------------------------|--|--|--|-----|-----|-----|-----|
| Equipment                |  |  |  | 0.0 | \$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

**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]    | \$800 | 10-Apr-2004 | 10-Jan-2008 | 4.7 | \$187 | \$800 | \$987 |
| Other (as needed)             |       |             |             | 0.0 | \$0   | \$0   | \$0   |

Notes for AVOIDED costs

Estimated cost to submit DLQORs (\$50 per report) to the Commission, calculated from the dates that no DLQORs were submitted.

Approx. Cost of Compliance

\$800

**TOTAL**

\$987

|  |   |                                      |
|--|---|--------------------------------------|
| <b>Screening Date</b> 7-Mar-2008                       | <b>Docket No.</b> 2008-0417-PWS-E   | <b>PCW</b>                           |
| <b>Respondent</b> Custom Water Co., L.L.C.             | <i>Policy Revision 2 (September 2002)</i>   |                                      |
| <b>Case ID No.</b> 35519                               | <i>PCW Revision February 29, 2008</i>   |                                      |
| <b>Reg. Ent. Reference No.</b> RN101260115             |   |                                      |
| <b>Media [Statute]</b> Public Water Supply             |   |                                      |
| <b>Enf. Coordinator</b> Tel Croston                    |   |                                      |
| <b>Violation Number</b> <input type="text" value="4"/> |   |                                      |
| <b>Rule Cite(s)</b>                                    | 30 Tex. Admin. Code § 290.43(e)   |                                      |
| <b>Violation Description</b>                           | Failed to provide a properly constructed intruder-resistant fence around two of the ground storage tanks. Specifically, at the time of the record review it was documented that two ground storage tanks were not protected by intruder-resistant fences. |                                      |
| <b>Base Penalty</b>                                    |   | <input type="text" value="\$1,000"/> |

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

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

**>> Programmatic Matrix**

|                     |  |                      |                      |  |                      |
|---------------------|--|----------------------|----------------------|--|----------------------|
|                     | <b>Falsification</b>   |                      |                      |  |                      |
|                     |  | Major                | Moderate             |  | Minor                |
|                     | <input type="text"/>   | <input type="text"/> | <input type="text"/> |  | <input type="text"/> |
|                     |  |                      |                      | <b>Percent</b> <input type="text" value="0%"/>       |                      |
| <b>Matrix Notes</b> | Failure to secure the ground storage tanks with an intruder-resistant fence may allow persons to enter and damage the tanks which may compromise the systems ability to provide a safe and adequate water supply. As a result, human health could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health. |                      |                      |  |                      |
|                     |  |                      |                      | <b>Adjustment</b> <input type="text" value="\$750"/> |                      |

**Violation Events**

|   |                                 |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
|---|---------------------------------|--------------------------|---------|---|-----------|----------------------|------------|----------------------|--------|----------------------|--------------|----------------------|--|--|
| Number of Violation Events <input type="text" value="2"/>   | <input type="text" value="28"/> | Number of violation days |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
| mark only one with an x<br><table border="1" style="margin-left: 20px;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align: center;">x</td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table> | daily                           | <input type="text"/>     | monthly | x | quarterly | <input type="text"/> | semiannual | <input type="text"/> | annual | <input type="text"/> | single event | <input type="text"/> | <b>Violation Base Penalty</b> <input type="text" value="\$500"/> |  |
| daily   | <input type="text"/>            |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
| monthly   | x                               |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
| quarterly   | <input type="text"/>            |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
| semiannual  | <input type="text"/>            |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
| annual  | <input type="text"/>            |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
| single event  | <input type="text"/>            |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |
| Two monthly events (one for each tank) are recommended from the date of the record review, February 1, 2008, to the date of screening, March 7, 2008.   |                                 |                          |         |   |           |                      |            |                      |        |                      |              |                      |  |  |

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>   | <b>Statutory Limit Test</b>   |
| <b>Estimated EB Amount</b> <input type="text" value="\$778"/>   | <b>Violation Final Penalty Total</b> <input type="text" value="\$747"/> |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$747"/> |   |

## Economic Benefit Worksheet

**Respondent** Custom Water Co., L.L.C.  
**Case ID No.** 35519  
**Reg. Ent. Reference No.** RN101260115  
**Media** Public Water Supply  
**Violation No.** 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description               | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> |           |               |            |     |                |               |           |

### Delayed Costs

|                          |         |             |             |     |      |       |       |
|--------------------------|---------|-------------|-------------|-----|------|-------|-------|
| Equipment                |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Buildings                |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Other (as needed)        |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Engineering/construction | \$3,000 | 16-Feb-2005 | 30-Oct-2008 | 3.7 | \$37 | \$741 | \$778 |
| 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

Estimated cost to secure the ground storage tanks, from the date of the original 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

Approx. Cost of Compliance

\$3,000

TOTAL

\$778

# Compliance History

|   |   |                          |                         |                    |
|---|---|--------------------------|-------------------------|--------------------|
| Customer/Respondent/Owner-Operator:   | CN602817876                                   | Custom Water Co., L.L.C. | Classification:         | Rating:            |
| Regulated Entity:   | RN101260115                                   | MONTAGUE WATER SYSTEM    | Classification:         | Site Rating:       |
| ID Number(s):   | PUBLIC WATER SYSTEM/SUPPLY<br>WATER LICENSING |                          | REGISTRATION<br>LICENSE | 1690004<br>1690004 |
| Location:   | 106 ALAMO RD, MONTAGUE COUNTY, TX, 76251      |                          |                         |                    |
| TCEQ Region:  | REGION 03 - ABILENE                           |                          |                         |                    |
| Date Compliance History Prepared:   | March 07, 2008                                |                          |                         |                    |
| Agency Decision Requiring Compliance History:   | Enforcement                                   |                          |                         |                    |
| Compliance Period:  | March 07, 2003 to March 07, 2008              |                          |                         |                    |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |   |                          |                         |                    |
| Name:   | Tel Croston                                   |                          | Phone:                  | 239-5717           |

## 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 | 02/23/2005 | (371798) |  |
| 2 | 08/22/2007 | (571212) |  |
| 3 | 10/03/2007 | (595432) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |          |                          |
|--------------|---|----------|--------------------------|
| Date:        | 02/24/2005  | (371798) |                          |
| Self Report? | NO  |          | Classification: Major    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(f)<br>30 TAC Chapter 290, SubChapter D 290.46(f)(1)<br>30 TAC Chapter 290, SubChapter D 290.46(f)(2)<br>30 TAC Chapter 290, SubChapter D 290.46(f)(3) |          |                          |
| Description: | COMPLETE FAILURE TO HAVE ANY GROUNDWATER MONTHLY OPERATING REPORTS.   |          |                          |
| Self Report? | NO  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(8)   |          |                          |
| Description: | COMPLETE FAILURE TO PROVIDE APPROVED AMERICAN WATER WORKS ASSOCIATION GROUND STORAGE TANKS.   |          |                          |
| Self Report? | NO  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(2)   |          |                          |
| Description: | COMPLETE FAILURE TO PROVIDE 30" ACCESS OPENINGS TO ALL GROUND STORAGE TANKS.  |          |                          |
| Self Report? | NO  |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(m)  |          |                          |
| Description: | FAILURE TO PAINT THE EXTERIOR SURFACES OF ALL GROUND STORAGE  |          |                          |

TANKS AND PRESSURE TANKS.

Self Report? NO Classification Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)  
Description: COMPLETE FAILURE TO HAVE AND MAINTAIN QUARTERLY DISTRIBUTION REPORTS SINCE JANUARY 1, 2004.

Self Report? NO Classification Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)  
Description: FAILURE TO PROVIDE INTRUDER-RESISTANT FENCES FOR TWO GST'S.  
Date 08/08/2007 (571212)

Self Report? NO Classification Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)  
30 TAC Chapter 290, SubChapter D 290.46(f)(1)  
30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)  
Description: COMPLETE FAILURE TO HAVE ANY GROUNDWATER MONTHLY OPERATING REPORTS.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: COMPLETE FAILURE TO PROVIDE APPROVED AMERICAN WATER WORKS ASSOCIATION GROUND STORAGE TANKS.

Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)  
Description: COMPLETE FAILURE TO PROVIDE 30" ACCESS OPENINGS TO ALL GROUND STORAGE TANKS.

Self Report? NO Classification Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: FAILURE TO PAINT THE EXTERIOR SURFACES OF ALL GROUND STORAGE TANKS AND PRESSURE TANKS.

Self Report? NO Classification Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)  
Description: COMPLETE FAILURE TO HAVE AND MAINTAIN QUARTERLY DISTRIBUTION REPORTS SINCE JANUARY 1, 2004.

Self Report? NO Classification Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)  
Description: FAILURE TO PROVIDE INTRUDER-RESISTANT FENCES FOR TWO GST'S.

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  
CUSTOM WATER CO., L.L.C.  
RN101260115**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0417-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Custom Water Co., L.L.C. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 106 Alamo Road in Montague County, Texas (the "Facility") that has approximately 163 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 7, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Three Thousand Seven Hundred Thirty-Seven Dollars (\$3,737) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Ninety Dollars (\$190) of the administrative penalty and Seven Hundred Forty-Seven Dollars (\$747) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this



Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Eight Hundred Dollars (\$2,800) of the administrative penalty shall be payable in Twenty-Eight monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to develop and maintain records of water work operations and maintenance activities, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3), as documented during a record review conducted on February 1, 2008.
2. Failed to provide a ground storage tank that meets American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8) and 290.43(c)(2), as documented during a record review conducted on February 1, 2008.



3. Failed to submit disinfection level quarterly operating reports ("DLQORs") to the TCEQ by the tenth day of the month following the reporting period, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4), as documented during a record review conducted on February 1, 2008.
4. Failed to provide a properly constructed intruder-resistant fence around two ground storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.43(e), as documented during a record review conducted on February 1, 2008.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Custom Water Co., L.L.C., Docket No. 2008-0417-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, begin compiling and maintaining properly completed monthly water works operation reports, as required by 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance as described in Ordering Provision 2.f. below, that demonstrates compliance with Ordering Provision 2.a.
  - c. Within 60 days after the effective date of this Agreed Order, enclose the ground storage tanks with an intruder resistant fence, as required by 30 TEX. ADMIN. CODE § 290.43.
  - d. Within 75 days after the effective date of this Agreed Order, submit written certification of compliance as described in Ordering Provision 2.f. below, that demonstrates compliance with Ordering Provision 2.c.
  - e. Within 90 days after the effective date of this Agreed Order;



- i. Compile and begin submitting, DLQORs to the TCEQ by the 10<sup>th</sup> day of the month at the beginning of each quarter, as required by 30 TEX. ADMIN. CODE § 290.110; and
  - ii. Replace the ground storage tanks with tanks that meet AWWA standards, as required by 30 TEX. ADMIN. CODE § 290.43.
- f. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.



5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John S. Rubin  
For the Executive Director

10/30/2008  
Date

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

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

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

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

[Signature]  
Signature

1-27-08  
Date

Edward A. Fenoglio  
Name (Printed or typed)  
Authorized Representative of  
Custom Water Co., L.L.C.

Owner operator  
Title

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

