

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2006-1393-PWS-E **TCEQ ID:** RN101387843 **CASE NO.:** 30860
RESPONDENT NAME: City of Nome

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Nome, 2577 Highway 365, Nome, Jefferson County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable David Studdert, Mayor, City of Nome, P.O. Box D, Nome, Texas 77629 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 17, 2006</p> <p>Date of NOV/NOE Relating to this Case: June 20, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Exceeded the maximum contaminant level of 0.60 milligrams per liter ("mg/L") for haloacetic acid ("HAA5") [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Exceeded the maximum contaminant level of 0.80 mg/L for total trihalomethanes ("TTHM") [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$3,135</p> <p>Total Deferred: \$ 0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,135</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for same or similar violations.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average maximum contaminant levels for HAA5 and TTHM; and</p> <p>b) Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including copies of water analysis, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS 1230039



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	17-Jul-2006	Screening	25-Jul-2006	EPA Due	
	PCW	01-Aug-2006				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Nome		
Reg. Ent. Ref. No.	RN101387843		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	30860	No. of Violations	2
Docket No.	2006-1393-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Cheryl Thompson
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

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

Notes

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$851"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$10,000"/>	

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 Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 25-Jul-2006 **Docket No.** 2006-1393-PWS-E **PCW**
Respondent City of Nome *Policy Revision 2 (September 2002)*
Case ID No. 30860 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387843
Media [Statute] Public Water Supply
Enf. Coordinator Cheryl Thompson

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>)	16	80%
	Other written NOVs	2	4%
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%
Other	<i>Please Enter Yes or No</i>		
	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) 84%

>> **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 respondent received 16 NOVs for same or similar violations and 2 NOVs for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 84%

Screening Date 25-Jul-2006 **Docket No.** 2006-1393-PWS-E **PCW**
Respondent City of Nome *Policy Revision 2 (September 2002)*
Case ID No. 30860 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387843
Media [Statute] Public Water Supply
Enf. Coordinator Cheryl Thompson
Violation Number 1
Primary Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(5)
Secondary Rule Cite(s) Tex. Health and Safety Code § 341.0315(c)

Violation Description
 The respondent is alleged to have exceeded the maximum contaminant level of 0.060 mg/L for haloacetic acid (HAA5) for the second, third and fourth quarter of 2004, for the first, second, third and fourth quarter of 2005 and the first quarter of 2006, based on the running annual average. Specifically, it was determined that the running annual average level of HAA5 was 0.099 mg/L during the second quarter, 0.173 mg/L during the third quarter and 0.182 mg/L during the fourth quarter of 2004 and 0.147 mg/L during the first quarter, 0.120 mg/L during the second quarter, 0.066 mg/L during the third quarter and 0.065 mg/L during the fourth quarter of 2005 and 0.078 mg/L during the first quarter of 2006.

Base Penalty \$1,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual		X		Percent 25%
	Potential				

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
						Percent
Matrix Notes	Human Health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment.					

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 3

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

Violation Base Penalty \$750

Three annual events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount \$425

Statutory Limit Test

Violation Final Penalty Total \$1,568

This violation Final Assessed Penalty (adjusted for limits) \$1,568

Economic Benefit Worksheet

Respondent: City of Nome
 Case ID No. 30860
 Reg. Ent. Reference No. RN101387843
 Media [Statute] Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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)	\$5,000	17-Jun-2006	28-Feb-2008	1.7	\$425	n/a	\$425

Notes for DELAYED costs: The estimated cost to implement an alternate method of disinfection. The date required is the date of the record review documenting the exceedance violations. The final date is the expected 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 **\$5,000**

TOTAL \$425

Screening Date 25-Jul-2006 **Docket No.** 2006-1393-PWS-E **PCW**
Respondent City of Nome *Policy Revision 2 (September 2002)*
Case ID No. 30860 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101387843
Media [Statute] Public Water Supply
Enf. Coordinator Cheryl Thompson
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)

Violation Description
 The respondent is alleged to have exceeded the maximum contaminant level of 0.080 mg/L for total trihalomethanes (TTHM) for the second, third and fourth quarter of 2004, for the first, second, third and fourth quarter of 2005 and the first quarter of 2006, based on the running annual average. Specifically, it was determined that the running annual average level of TTHM was 0.120 mg/L during the second quarter, 0.190 mg/L during the third quarter and 0.205 mg/L during the fourth quarter of 2004 and 0.189 mg/L during the first quarter, 0.159 mg/L during the second quarter, 0.124 mg/L during the third quarter and 0.125 mg/L during the fourth quarter of 2005 and 0.119 mg/L during the first quarter of 2006.

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes
 Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

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

Violation Base Penalty

Three annual events are 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 City of Nome
 Case ID No. 30860
 Reg. Ent. Reference No. RN101387843
 Media [Statute] Public Water Supply
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$5,000	17-Jun-2006	28-Feb-2008	1.7	\$425	n/a	\$425

Notes for DELAYED costs: The estimated cost to implement an alternate method of disinfection. The date required is the date of the record review documenting the exceedance violations. The final date is the expected 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

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN600671887	City of Nome	Classification: Average	Rating: 2.00
Regulated Entity:	RN101387843	CITY OF NOME	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING		REGISTRATION LICENSE	1230039 1230039
Location:	2577 HWY 365, NOME, TX, 77629			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	July 25, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 25, 2001 to July 25, 2006			

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

Name: Cheryl Thompson Phone: (817)588-5886

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 | 08/01/2003 | (140550) |
| N/A | | |
| 2 | 08/11/2005 | (484751) |
| 3 | 09/13/2005 | (397430) |
| 4 | 01/04/2006 | (484560) |
| 5 | 07/21/2004 | (483877) |
| 6 | 08/16/2005 | (484557) |
| 7 | 04/27/2005 | (484508) |
| 8 | 09/30/2005 | (484768) |
| 9 | 09/04/2004 | (484422) |
| 10 | 04/20/2004 | (268379) |
| 11 | 09/29/2005 | (484558) |
| 12 | 02/10/2005 | (484716) |
| 13 | 08/27/2004 | (484593) |
| 14 | 04/19/2006 | (484780) |
| 15 | 08/02/2004 | (484568) |
| 16 | 04/21/2005 | (484735) |
| 17 | 04/18/2006 | (484566) |
| 18 | 08/22/2002 | (4550) |
| 19 | 03/02/2005 | (347837) |

20 01/11/2005 (344724)
21 07/12/2006 (485249)
22 01/12/2006 (484777)
23 02/15/2005 (484447)

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

Date: 02/15/2005 (484447)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: Violated the maximum contaminant level for haloacetic acids in the fourth quarter of 2004.

Date: 09/29/2005 (484558)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: Violated the maximum contaminant level for haloacetic acids in the third quarter of 2005.

Date: 08/11/2005 (484751)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes in the second quarter of 2005.

Date: 01/10/2005 (344724)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain fence.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)
Description: Failure to provide day tanks.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)
Description: Failure to provide containment for all liquid chemical tanks.

Date: 04/21/2005 (484735)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes in the first quarter of 2005.

Date: 04/27/2005 (484508)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: Violated the maximum contaminant level for haloacetic acids in the first quarter of 2005.

Date: 04/19/2006 (484780)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: Violated the maximum contaminant level for trihalomethanes in the first quarter of 2006.

Date: 08/16/2005 (484557)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: Violated the maximum contaminant level for haloacetic acids in the second quarter of 2005.

Date: 08/02/2004 (484568)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes in the second quarter of 2004.
 Date: 01/12/2006 (484777)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes in the fourth quarter of 2005.
 Date: 08/27/2004 (484593)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes in the third quarter of 2004.
 Date: 02/10/2005 (484716)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes in the fourth quarter of 2004.
 Date: 01/04/2006 (484560)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: Violated the maximum contaminant level for haloacetic acids in the fourth quarter of 2005.
 Date: 04/18/2006 (484566)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: Violated the maximum contaminant level for haloacetic acids in the first quarter of 2006.
 Date: 08/19/2002 (4550)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]
 Description: Failure to properly maintain facilities.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]
 Description: Failure to properly maintain facilities.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)[G]
 30 TAC Chapter 290, SubChapter F 290.119[G]
 Description: Failure to properly calibrate laboratory equipment.
 Date: 09/04/2004 (484422)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: Violated the maximum contaminant level for haloacetic acids in the third quarter of 2004.
 Date: 09/30/2005 (484768)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: Violated the maximum contaminant level for trihalomethanes in the third quarter of 2005.
 Date: 07/21/2004 (483877)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: Violated the maximum contaminant level for haloacetic acids in the second quarter of 2004.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF NOME
RN101387843**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1393-PWS-E

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

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a public water supply at 2577 Highway 365 in Nome, Jefferson County, Texas (the "Facility") that has approximately 272 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review on June 17, 2006, TCEQ staff documented that the City exceeded the maximum contaminant level of 0.060 milligrams per liter ("mg/L") based on a running annual average for haloacetic acid ("HAA5"). Specifically, it was determined that the running annual average level of HAA5 was 0.099 mg/L during the second quarter, 0.173 mg/L during the third quarter and 0.182 mg/L during the fourth quarter of 2004 and 0.147 mg/L during the first quarter,

0.120 mg/L during the second quarter, 0.066 mg/L during the third quarter and 0.065 mg/L during the fourth quarter of 2005 and 0.078 mg/L during the first quarter of 2006.

3. During a record review on June 17, 2006, TCEQ staff documented that the City exceeded the maximum contaminant level of 0.080 milligrams per liter ("mg/L") based on a running annual average for total trihalomethanes ("TTHM"). Specifically, it was determined that the running annual average level of TTHM was 0.120 mg/L during the second quarter, 0.190 mg/L during the third quarter and 0.205 mg/L during the fourth quarter of 2004 and 0.189 mg/L during the first quarter, 0.159 mg/L during the second quarter, 0.124 mg/L during the third quarter and 0.125 mg/L during the fourth quarter of 2005 and 0.119 mg/L during the first quarter of 2006.
4. The City received notice of the violations on June 25, 2006.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE § 7.002 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, the City exceeded the maximum contaminant level of 0.60 mg/L for haloacetic acid (HAA5), in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Finding of Fact No. 3, the City exceeded the maximum contaminant level of 0.80 mg/L for total trihalomethanes (TTHM), in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Three Thousand One Hundred Thirty-Five Dollars (\$3,135) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The City has paid the Three Thousand One Hundred Thirty Five Dollar (\$3,135) administrative penalty.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Three Thousand One Hundred Thirty-Five Dollars (\$3,135), as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with

all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Nome, Docket No. 2006-1393-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. The City shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average maximum contaminant levels for HAA5 and TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including copies of water analysis, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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:

DBP Rule Coordinator
Public Drinking Water Section MC-155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

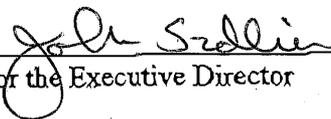
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any 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 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.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

City of Nome
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 For the Commission



 For the Executive Director

 Date

11/11/88

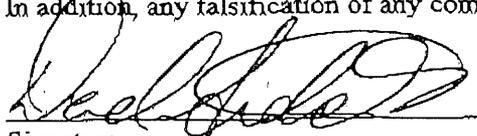
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Nome. I am authorized to agree to the attached Agreed Order on behalf of City of Nome, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the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

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

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

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

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



 Signature

 Date

10/30/07

David Studdert

 Name (printed or typed)

 Title

Mayor

Authorized Representative
 City of Nome

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

