

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0818-PWS-E TCEQ ID: RN102698719 CASE NO.: 37727**

**RESPONDENT NAME: Webb County**

<b>ORDER TYPE:</b>		
<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	
<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> Webb County Water Utilities, 515 Martha Drive, Laredo, Webb County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility 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 12, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Danny Valdez, County Judge, Webb County, P.O. Box 29, Laredo, Texas 78042  <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>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <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> May 4, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 6, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM"), based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$965</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$965</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Ordering Provisions:</b></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 MCL for 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 photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 0

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

<b>TCFQ</b>	<b>DATES</b>	<b>Assigned</b> 26-May-2009	<b>Screening</b> 2-Jun-2009	<b>EPA Due</b> 31-Aug-2009
	<b>PCW</b>	2-Jun-2009		

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Webb County
<b>Reg. Ent. Ref. No.</b>	RN102698719
<b>Facility/Site Region</b>	16-Laredo
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37727	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0818-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Merrilee Hupp
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit</b>	Minimum \$50	Maximum	\$1,000

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	\$500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
<b>Compliance History</b>	68.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$340
<b>Notes</b>	The penalty enhancement is due to two Notices of Violation ("NOV"s) for violations that are the same as or similar to the violations cited in this action, four NOV's without the same or similar violations, and two Agreed Orders without a denial of liability.		
<b>Culpability</b>	Yes 25.0% Enhancement	<b>Subtotal 4</b>	\$125
<b>Notes</b>	The Respondent was issued two alert letters for total trihalomethanes ("TTHM") exceedances on October 3, 2008 and August 19, 2008.		
<b>Good Faith Effort to Comply</b>		<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
<small>Total EB Amounts</small>	\$43	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$400		
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	\$965
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
<b>Notes</b>			
		<b>Final Penalty Amount</b>	\$965
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$965
<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only, e.g. 20 for 20% reduction.)</small>			
<b>Notes</b>	No deferral due to culpability.		
<b>PAYABLE PENALTY</b>			\$965

**Screening Date** 2-Jun-2009

**Docket No.** 2009-0818-PWS-E

**PCW**

**Respondent** Webb County

Policy Revision 2 (September 2002)

**Case ID No.** 37727

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102698719

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Merrilee Hupp

### 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 (number of NOVs meeting criteria)	2	10%
	Other written NOVs	4	8%
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	2	50%
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)** 68%

>> **Repeat Violator (Subtotal 3)**

N/A

**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 penalty enhancement is due to two Notices of Violation ("NOV"s) for violations that are the same as or similar to the violations cited in this action, four NOVs without the same or similar violations, and two Agreed Orders without a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 68%

<b>Screening Date:</b>	2-Jun-2009	<b>Docket No.:</b>	2009-0818-PWS-E	<b>PCW</b>
<b>Respondent:</b>	Webb County	Policy Revision 2 (September 2002)		
<b>Case ID No.:</b>	37727	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.:</b>	RN102698719			
<b>Media [Statute]:</b>	Public Water Supply			
<b>Enf. Coordinator:</b>	Merrilee Hupp			
<b>Violation Number:</b>	1			
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0316(c)			
<b>Violation Description:</b>	Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for TTHM, based on a running annual average. Specifically, the running annual average concentration for TTHM was 0.092 mg/L for the fourth quarter of 2008 and 0.092 mg/L for the first quarter of 2009.			
<b>Base Penalty:</b>				\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual		x		
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Exceeding the MCL for TTHM exposes customers of the water supply to significant amounts of contaminants that do not exceed levels that are protective of human health.

Adjustment: \$500

Violation Events

Number of Violation Events: 1      181 Number of violation days

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

Violation Base Penalty: \$500

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction      \$0

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

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

Violation Subtotal: \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$43

Violation Final Penalty Total: \$965

This violation Final Assessed Penalty (adjusted for limits): \$965

### Economic Benefit Worksheet

**Respondent** Webb County  
**Case ID No.** 37727  
**Reg. Ent. Reference No.** RN102698719  
**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**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	OneTime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	8-Oct-2008	1-Dec-2010	2.15	\$43	n/a	\$43

**Notes for DELAYED costs**  
 Estimated cost associated with an increased flushing frequency (three times a week) of the water distribution system to reduce the TTHM levels, calculated from the initial quarter of noncompliance, to the estimated date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	OneTime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$400	<b>TOTAL</b>	\$43
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supply could not provide ANSI/NSF certification for the silica sand and phosphoric acid UV cleaner.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)

Description: Failure to properly calibrate the laboratory equipment used for compliance testing. Specifically, on the date of the initial investigation on April 13, 2007, all instrumentation requiring calibration every 90 days, with the exception of the online pH meters, had last been calibrated on January 4, 2007. Additionally, the online pH meters and the online and benchtop chlorine and turbidity meters had no records of primary or secondary calibration on the date of the initial investigation.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(5)

30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide an intruder-resistant fence around all water system facilities and equipment. Specifically, there was no fence containing the raw water diesel pump or the above-ground raw water transmission line, the fencing that was in place at raw water station was in disrepair, and there was excessive vegetation covering the fence around the Rio Bravo elevated tank.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure maintain the good working condition and general appearance of the system's facilities and equipment. Specifically, the standpipe was noted to have holes in the roof and hatch and was not water tight, the roof hatch on the El Cenizo elevated tank was not closed and locked, the aircraft light on the top of the Rio Bravo elevated tank was broken, and screens placed inside the overflow flaps of the two elevated tanks were severely rusted.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)(B)

30 TAC Chapter 290, SubChapter F 290.110(e)(2)

Description: Failure to submit accurate and complete Monthly Operational Reports for Surface Water Treatment Plants to the Commission. Specifically, the reports submitted for May 2006 through April 2007 contained inaccurate raw water pump data and individual filter effluent readings, and the water supply reported averages for chlorine, temperature, and pH instead of values recorded during times of peak flow-through.

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	06/16/2004	(274651)
2	03/02/2005	(347501)
3	07/28/2005	(401112)
4	08/24/2006	(509929)
5	03/27/2007	(555093)
6	05/30/2007	(562293)
7	04/10/2008	(637777)
8	07/21/2008	(684623)
9	01/16/2009	(744203)
10	03/30/2009	(744882)
11	05/14/2009	(745502)
12	05/28/2009	(735939)
13	05/29/2009	(737532)

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

Date: 07/26/2005 (401112)

CN600612758

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failure to maintain a minimum of 0.2 mg/L free chlorine residual in each finished water storage tank and throughout the distribution.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)

Description: Failure to properly calibrate laboratory equipment used for compliance testing.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(4)

Description: Failure by a water system that serves fewer than 10,000 people to continuously monitor the filtered water turbidity at the effluent of each individual filter and record the turbidity value every 15 minutes.

Date: 08/25/2006 (509929) CN600612758

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)

Description: Failure to properly calibrate laboratory equipment used for compliance testing.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(f)(2)

Description: Failure to report the continuous individual filter monitoring data as required.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(5)(B)

Description: Failure to conduct grab sampling every four hours in lieu of continuous individual filter monitoring and for no more than 14 working days following the failure of the online equipment.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)  
30 TAC Chapter 290, SubChapter F 290.122(d)

Description: Failure notify persons served by the system of the failure to monitor and/or report as required.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to maintain an accurate and up-to-date chemical and microbiological monitoring plan. Specifically, the monitoring plan did not accurately reflect the locations at which monitoring was being conducted for turbidity of the combined filter effluent.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain the water system's facilities.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure provide a thorough and updated plant operations manual for the operators to review and reference.

Date: 11/13/2008 (721765) CN600612758

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to ensure the good working condition and general appearance of the system's facilities and equipment.

Date: 01/16/2009 (744203) CN600612758

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2008.

Date: 03/30/2009 (744882) CN600612758

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2009.

Date: 05/27/2009 (737532) CN600612758

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C)(iii)

Description: Failure to maintain the Recycling Practices Report form and other records pertaining to site-specific recycle practices for treatment plants that recycle.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)

Description: Failure to maintain the minimum required disinfectant level in the distribution system at all times.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

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  
WEBB COUNTY  
RN102698719

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§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER  
DOCKET NO. 2009-0818-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 Webb County ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at 515 Martha Drive in Laredo, Webb County, Texas (the "Facility") that has approximately 1,816 residential service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on May 4, 2009, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentration for TTHM was 0.092 mg/L for the fourth quarter of 2008 and 0.092 mg/L for the first quarter of 2009.
3. The Respondent received notice of the violations on May 11, 2009.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Nine Hundred Sixty-Five Dollars (\$965) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Nine Hundred Sixty-Five Dollar (\$965) administrative penalty.

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Nine Hundred Sixty-Five Dollars (\$965) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Webb County, Docket No. 2009-0818-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 Respondent 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 MCL for 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 photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

DBP Compliance Coordinator  
Water Supply Division, PDWS, MC 155  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3287

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and

substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John Sullivan*  
For the Executive Director

9/18/09  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Webb County. I am authorized to agree to the attached Agreed Order on behalf of Webb County, 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, Webb County waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

*Danny Valdez*  
Signature

August 03, 2009  
Date

Danny Valdez  
Name (Printed or typed)  
Authorized Representative of  
Webb County

Webb County Judge  
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.

