

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-0696-PWS-E TCEQ ID: RN101215978 CASE NO.: 27041**  
**RESPONDENT NAME: CITY OF DEL RIO**

|   |   |  |
|---|---|--|
| <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                    |

**SITE WHERE VIOLATION(S) OCCURRED:** 264 San Felipe Springs Road, Del Rio, Val Verde County

**TYPE OF OPERATION:** Public Water System

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on April 21, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**SEP Coordinator:** Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223

**TCEQ Enforcement Coordinator:** Mr. Christopher Keffer, Waste Enforcement Section, MC 169, (512) 239-5610

**TCEQ Regional Contact:** Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 791-6611

**Respondent:** The Honorable Efrain V. Valdez, Mayor, City of Del Rio, 109 West Broadway, Del Rio, Texas 78840

**Respondent's Attorney:** Mr. David Sorola, City Attorney, 109 West Broadway, Del Rio, Texas 78840

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
|--|---|---|
| <p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b><br/>None</p> <p><b>Dates of Investigation Relating to this Case:</b><br/>February 12 and 13, 2007</p> <p><b>Date of NOE Relating to this Case:</b><br/>April 30, 2007</p> <p><b>Background Facts:</b><br/>The EDPRP was filed on August 24, 2007. The Respondent filed an Answer on September 18, 2007. The Respondent signed an Agreed Order on February 21, 2008.</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>Failed to acquire plan approval by the Executive Director for service connections that require booster pumps taking suction from the public water system lines [30 TEX. ADMIN. CODE § 290.44(d)(2) and TCEQ Agreed Order, Docket No. 2005-1777-PWS-E, IV. Ordering Provisions 2.a. and 2.b.].</li> <li>Failed to initiate a maintenance program to maintain the general appearance of the system's facilities and proper operation of the system's equipment [30 TEX. ADMIN. CODE § 290.46(m)].</li> <li>Failed to provide the source water intake with an intruder-resistant fence [30 TEX. ADMIN. CODE § 290.41(d)(4)].</li> <li>Failed to meet site-specific performance standards approved by the Executive Director for membrane facility [30 TEX. ADMIN. CODE § 290.111(b)(1)(B)].</li> <li>Failed to submit additional documentation that the Executive Director may require to determine compliance [30 TEX. ADMIN. CODE § 290.46(f)(4)(A)].</li> <li>Failed to pay the general permit storm water fee for calendar year 2007 [30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702].</li> </ol> | <p><b>Total Assessed:</b> \$2,448</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$2,448</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p>The administrative penalty of \$2,448 shall be offset by the City's completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" 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>Findings Order Criteria:</b><br/>Indifference to legal duty – violation of previous Agreed Order.</p> | <p><b>Corrective Action Taken:</b></p> <p>The Executive Director recognizes that the Respondent paid its general permit storm water fee for calendar year 2007. Interest still outstanding will be billed to the Respondent along with its 2008 general permit storm water fee.</p> <p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Implement and complete a Supplemental Environmental Project (SEP).</li> <li>Within 30 days:             <ol style="list-style-type: none"> <li>Initiate a maintenance program to maintain the general appearance of the system's facilities and maintain proper operation of the system's equipment;</li> <li>Provide an adequate intruder-restraint fence at the east spring source water intake;</li> <li>Submit documentation showing that the alarm points for the individual filter racks meet specified criteria; and</li> <li>Submit documentation showing the number of living units for each apartment complex that is serviced by a master meter.</li> </ol> </li> <li>Within 45 days, submit certification for Ordering Provision Nos. 2.a. through 2.d.</li> <li>Within 60 days, equip the inline booster pumps with an automatic pressure cut-off device and a pressure recorder device with battery power backup on the suction side of the booster pumps. The automatic pressure cut-off device shall be programmed so the pumping units will become inoperative when the suction pressure is less than 20 pounds per square inch ("psi").</li> <li>Within 75 days, test the automatic pressure cut-off device to assure accuracy of the pressure sensor to shut down the inline booster pumps at less than 20 psi.</li> <li>Within 90 days, submit written certification of compliance with Ordering Provision Nos. 4 and 5.</li> </ol> |

Attachment A

Docket Number: 2007-0696-PWS-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Del Rio

**Penalty Amount:** Two thousand four hundred forty-eight dollars (\$2,448)

**SEP Amount:** Two thousand four hundred forty-eight dollars (\$2,448)

**Type of SEP:** Pre-approved SEP

**Third-Party Recipient:** Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Water or Wastewater Assistance*

**Location of SEP:** Val Verde County

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Water or Wastewater Assistance project* in Val Verde County. Specifically, SEP monies will pay for the labor and disposal costs associated with assistance to low-income residents with shallow, improperly designed, or contaminated drinking water wells or failing wastewater systems, or plugging of abandoned wells. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The wastewater portion of this SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.

- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

C. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
Attention: Eddi Darilek  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

City of Del Rio  
Agreed Order – Attachment A Docket No. 2007-0696-PWS-E

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and shall send it to "Texas Commission on Environmental Quality" and mailed to:

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

**5. Publicity**

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

**6. Clean Texas Program**

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

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

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

|       |          |            |           |             |                     |
|-------|----------|------------|-----------|-------------|---------------------|
| DATES | Assigned | 6-Mar-2007 |           |             |                     |
|       | PCW      | 1-May-2007 | Screening | 18-Apr-2007 | EPA Due 30-Nov-2007 |

|  |                 |                    |       |
|--|-----------------|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                 |                    |       |
| Respondent                             | City of Del Rio |                    |       |
| Reg. Ent. Ref. No.                     | RN101215978     |                    |       |
| Facility/Site Region                   | 16-Laredo       | Major/Minor Source | Minor |

|                                 |                     |                   |                       |
|---------------------------------|---------------------|-------------------|-----------------------|
| <b>CASE INFORMATION</b>         |                     |                   |                       |
| Enf./Case ID No.                | 27041               | No. of Violations | 6                     |
| Docket No.                      | 2007-0696-PWS-E     | Order Type        | Findings              |
| Media Program(s)                | Public Water Supply | Enf. Coordinator  | Christopher Keffer    |
| Multi-Media                     |                     | EC's Team         | Order Compliance Team |
| 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** **Subtotals 2, 3, & 7**

**Notes**  
The Respondent received one agreed order with a denial of libality, one NOV for the same violation as those violations addressed in this enforcement action and four NOVs for violations that are not the same or similar.

**Culpability** **Subtotal 4**

**Notes**  
The Respondent received letters sent November 22, 2005, March 10, 2006, August 29, 2006 and September 28, 2006, requesting information to complete review of plans submitted.

**Good Faith Effort to Comply** **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           | X                    | (mark with x)                 |

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

**Total EB Amounts**  **Subtotal 6**   
**Approx. Cost of Compliance**  **\*Capped at the Total EB \$ Amount**

**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** **Adjustment**

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

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

Screening Date 18-Apr-2007

Docket No. 2007-0696-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 27041

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

### 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<br>(number of NOVs meeting criteria)   | 1                 | 5%      |
|                               | Other written NOVs   | 4                 | 8%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 1                 | 20%     |
|                               | 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) 33%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent received one agreed order with a denial of liability, one NOV for the same violation as those violations addressed in this enforcement action and four NOVs for violations that are not the same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 33%

Screening Date 18-Apr-2007

Docket No. 2007-0696-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 27041

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.44(d)(2) and TCEQ Agreed Order Docket No. 2005-1777-PWS-E, IV. Ordering Provisions 2.a. and 2.b.

Violation Description Failed to acquire plan approval by the Executive Director for service connections that require booster pumps taking suction from the public water system supply lines. Specifically during the investigation, the respondent failed to provide documentation to show that the system had approval from the Commission to allow the Virginia Street inline booster pump station to take suction directly from the public water supply lines.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| OR        | Release | Harm  |          |       | Percent |
|-----------|---------|-------|----------|-------|---------|
|           |         | Major | Moderate | Minor |         |
| Actual    |         |       |          |       | 0%      |
| Potential |         |       |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               | X     |          |       | 10%     |

Matrix Notes The Respondent failed to comply with 100 percent of this rule.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 13 369 Number of violation days

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | monthly      | X |
|                         | quarterly    |   |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

Violation Base Penalty \$1,300

13 monthly events are recommended based on the effective date of TCEQ Agreed Order Docket No. 2005-1777-PWS-E, April 14, 2006 to the screening date, April 18, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$285

Violation Final Penalty Total \$2,053

This violation Final Assessed Penalty (adjusted for limits) \$2,053

## Economic Benefit Worksheet

Respondent City of Del Rio  
 Case ID No. 27041  
 Reg. Ent. Reference No. RN101215978  
 Media Public Water Supply  
 Violation No.: 1

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

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

**Delayed Costs**

|                          |         |             |             |     |      |       |       |
|--------------------------|---------|-------------|-------------|-----|------|-------|-------|
| Equipment                |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Buildings                |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Other (as needed)        |         |             |             | 0.0 | \$0  | \$0   | \$0   |
| Engineering/construction | \$2,500 | 14-Apr-2006 | 30-Nov-2007 | 1.6 | \$14 | \$272 | \$285 |
| 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 submit plans and specifications to obtain approval to use the booster pumps. Date required is the effective date of TCEQ Agreed Order Docket No. 2005-1777-PWS-E. Final date is 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 | \$2,500 | TOTAL | \$285 |
|----------------------------|---------|-------|-------|

Screening Date 18-Apr-2007

Docket No. 2007-0696-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 27041

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number

Rule Cite(s)

Violation Description

Failed to initiate a maintenance program to maintain the general appearance of the system's facilities and proper operation of the system's equipment. Specifically, during the investigation, the investigator documented that the pressure gauge on the suction side of the Virginia Street booster pump station no. 1 was inoperable, Bedell pump no. 1 was leaking and the waste lagoon contained excessive vegetation.

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="5%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> |                                 |

>> Programmatic Matrix

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

Matrix Notes

Failure to maintain an adequate maintenance program could expose human health or the environment to insignificant amount of pollutants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events  Number of violation days

|                            |                                     |                      |
|----------------------------|-------------------------------------|----------------------|
| mark only one<br>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="checkbox"/> |                      |

Violation Base Penalty

One single event is recommended based on documentation of the violation during the February 12-13, 2007 investigation.

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 Del Rio  
**Case ID No.** 27041  
**Reg. Ent. Reference No.** RN101215978  
**Media** Public Water Supply  
**Violation No.** 2

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

| Item Description | Item Cost | 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)        | \$500 | 12-Feb-2007 | 30-Nov-2007 | 0.8 | \$20 | n/a | \$20 |

Notes for DELAYED costs

Estimated cost to develop a maintenance program to ensure the pressure gauge on the suction side of the Virginia Street booster pump station no. 1 is operable, repair the leak at Bedell pump no. 1, and remove the excessive vegetation at the waste lagoon. Date required is the investigation date. Final date is 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 \$500
TOTAL \$20

Screening Date 18-Apr-2007

Docket No. 2007-0696-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 27041

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.41(d)(4)

Violation Description

Failed to provide the source water intake with an intruder-resistant fence. Specifically, during the investigation, the investigator documented that two sides of the fence around the east spring intake were approximately five feet in height and the entire fence did not have three strands of barb wire on the top of the fence.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          | X     |

Percent 5%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Failure to provide a proper intruder-resistant fence may result in vandalism and contamination of the water system.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

65 Number of violation days

|                         |            |  |
|-------------------------|------------|--|
| mark only one with an x | daily      |  |
|                         | monthly    |  |
|                         | quarterly  |  |
|                         | semiannual |  |
|                         | annual     |  |
| single event            | X          |  |

Violation Base Penalty \$50

One single event is recommended based on documentation of the violation during the February 12-13, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$79

This violation Final Assessed Penalty (adjusted for limits) \$79

## Economic Benefit Worksheet

Respondent: City of Del Rio  
 Case ID No.: 27041  
 Reg. Ent. Reference No.: RN101215978  
 Media: Public Water Supply  
 Violation No.: 3

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

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

### Delayed Costs

|                          |       |             |             |     |     |      |      |
|--------------------------|-------|-------------|-------------|-----|-----|------|------|
| Equipment                | \$600 | 12-Feb-2007 | 30-Nov-2007 | 0.8 | \$2 | \$32 | \$33 |
| 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

Estimated cost to provide a proper intruder-resistant fence. Date required is the investigation date. Final date is 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

\$600

TOTAL

\$33

Screening Date 18-Apr-2007

Docket No. 2007-0696-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 27041

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.111(b)(1)(B)

Violation Description

Failed to meet site-specific performance standards approved by the Executive Director for a membrane facility. Specifically, an April 3, 2001 TCEQ guidance document for monitoring, operating and reporting requirements for membrane installations requires that an alarm is required to sound if two consecutive readings exceed the 95th percentile confidence level for the preceding month's particle counts or if the particle count exceeds 10 particles per milliliter for two consecutive readings. A review of the supervisory control and data acquisition system by the investigator revealed that the alarms were set to sound if the particle count exceeds 2000 particles per milliliter.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 5%      |
| Potential |       |          | x     |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

Failure to meet site-specific performance standards could expose human health or the environment to insignificant amount of pollutants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 65

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

Violation Base Penalty \$50

One single event is recommended based on documentation of the violation during the February 12-13, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$79

This violation Final Assessed Penalty (adjusted for limits) \$79

## Economic Benefit Worksheet

Respondent: City of Del Rio  
 Case ID No.: 27041  
 Reg. Ent. Reference No.: RN101215978  
 Media: Public Water Supply  
 Violation No.: 5

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

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

**Delayed Costs**

|                          |       |             |             |     |     |      |      |
|--------------------------|-------|-------------|-------------|-----|-----|------|------|
| Equipment                |       |             |             | 0.0 | \$0 | \$0  | \$0  |
| Buildings                |       |             |             | 0.0 | \$0 | \$0  | \$0  |
| Other (as needed)        | \$200 | 12-Feb-2007 | 30-Nov-2007 | 0.8 | \$1 | \$11 | \$11 |
| 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

Estimated cost to meet performance standards at the facility regarding the alarm points for the individual filter racks. Date required is the investigation date. Final date is 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 \$200
TOTAL \$11

Screening Date 18-Apr-2007

Docket No. 2007-0696-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 27041

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(4)(A)

Violation Description Failed to submit additional documentation that the Executive may require to determine compliance. Specifically, during the investigation, the investigator requested documentation showing the number of equivalent living units for several apartment complexes that are serviced by one master meter in order to accurately calculate the water system's capacity requirements. The operator failed to provide the requested information.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 0%      |
| Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               | x     |          |       | 10%     |

Matrix Notes The Respondent failed to comply with 100 percent of this rule.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 65

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

Violation Base Penalty \$100

One single event is recommended based on documentation of the violation during the February 12-13, 2007 investigation.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$4 Violation Final Penalty Total \$158

This violation Final Assessed Penalty (adjusted for limits) \$158

## Economic Benefit Worksheet

Respondent City of Del Rio  
 Case ID No. 27041  
 Reg. Ent. Reference No. RN101215978  
 Media Public Water Supply  
 Violation No. 6

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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    | \$100 | 12-Feb-2007 | 30-Nov-2007 | 0.8 | \$4 | n/a | \$4 |
| 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 submit additional documentation regarding the number of living units for apartment complexes that have only one master meter serving all existing living units. Date required is the investigation date. Final date is 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

\$100

TOTAL

\$4

Screening Date 18-Apr-2007

Docket No. 2007-0696-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 27041

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Christopher Keffer

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm                 |                      |                      |
|-----------|----------------------|----------------------|----------------------|
|           | Major                | Moderate             | Minor                |
| Actual    | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

Adjustment

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 type="text"/> |

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 27041  
**Reg. Ent. Reference No.** RN101215978  
**Media** Public Water Supply  
**Violation No.** 7

|                         |                              |
|-------------------------|------------------------------|
| <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]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

## Compliance History

|   |   |                              |   |                   |
|---|---|------------------------------|---|-------------------|
| Customer/Respondent/Owner-Operator:           | CN600756290                                   | City of Del Rio              | Classification: AVERAGE                   | Rating: 1.49      |
| Regulated Entity:                             | RN101215978                                   | DEL RIO UTILITIES COMMISSION | Classification: AVERAGE                   | Site Rating: 3.33 |
| ID Number(s):                                 | PUBLIC WATER SYSTEM/SUPPLY                    | REGISTRATION                 | 2330001                                   |                   |
|   | WATER LICENSING                               | LICENSE                      | 2330001                                   |                   |
|   | WASTEWATER                                    | PERMIT                       | 2E0000021                                 |                   |
| Location:                                     | 264 SAN FELIPE SPRINGS RD, DEL RIO, TX, 78840 |                              | Rating Date: 9/1/2006 Repeat Violator: NO |                   |
| TCEQ Region:                                  | REGION 16 - LAREDO                            |                              |   |                   |
| Date Compliance History Prepared:             | April 04, 2007                                |                              |   |                   |
| Agency Decision Requiring Compliance History: | Enforcement                                   |                              |   |                   |
| Compliance Period:                            | April 04, 2002 to April 04, 2007              |                              |   |                   |

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

Name: Sandy VanCleave Phone: (512) 239-2670

### 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?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

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

Effective Date: 04/14/2006

ADMINORDER 2005-1777-PWS-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failed to provide the elevated storage tank located on Highway 277 with an overflow designed in strict accordance with American Water Works Association standards that terminates downward with a gravity-hinged and weighted cover.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(2)

Description: Failed to acquire plan approval by the Executive Director for service connections that require booster pumps taking suction from the public water system supply lines.

- 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  | 07/11/2002 | (2512)   |
| 2  | 11/08/2002 | (15548)  |
| 3  | 05/19/2004 | (270387) |
| 4  | 07/09/2004 | (280591) |
| 5  | 01/24/2005 | (347635) |
| 6  | 09/23/2005 | (418738) |
| 7  | 02/23/2006 | (453865) |
| 8  | 03/07/2006 | (458262) |
| 9  | 08/30/2006 | (510820) |
| 10 | 08/30/2006 | (510873) |
| 11 | 02/27/2007 | (541797) |

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

Date: 07/14/2002 (2512)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(c)(1)(A)

Description: Failure to provide filtration for ground water under the influence of surface water.

Date: 05/19/2004 (270387)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(F)  
 Description: Failure to maintain records relating to special studies and pilot projects, special monitoring, and other system-specific matters as directed by the executive director.

Date: 01/24/2005 (347635)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
 Description: Failed to provide the elevated storage tank located on Highway 277 with an overflow designed in strict accordance with American Water Works Association standards that terminates downward with a gravity-hinged and weighted cover.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(2)  
 Description: Failed to acquire plan approval by the Executive Director for service connections that require booster pumps taking suction from the public water system supply lines.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)  
 Description: Failure to provide legible ownership sign at each of the production, treatment, and storage facilities.

Date: 11/29/2005 (438745)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 210, SubChapter B 210.22(c)  
 Description: Failure to prevent a nuisance condition resulting from the distribution, the use, and/or storage of reclaimed water.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 210, SubChapter B 210.23(d)(6)  
 Description: Failure to maintain minimum embankment designs on all industrial reclaimed water retention, holding, and transfer ponds.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 210, SubChapter E 210.55(b)  
 Description: Failure to conduct the required water quality analyses.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 210, SubChapter E 210.55(a)(3)  
 Description: Failure to measure and record the daily volume of water delivered to the reclaimed water user.

Date: 02/24/2006 (453865)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)  
 Description: Failure to obtain TCEQ approval for any customer service inspection certificate form which varies from the format found in 30 TAC 290.47(d).

- 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  
CITY OF DEL RIO;  
RN101215978**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0696-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Del Rio ("Del Rio") under the authority of TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and 30 TEX. ADMIN. CODE chs. 205 and 290. The Executive Director of the TCEQ, represented by the Litigation Division, and Del Rio, represented by David Sorola, City Attorney for the City of Del Rio, and Allen Beinke of the law firm of Loeffler Tuggey Pauerstein Rosenthal LLP, presented this agreement to the Commission.

Del Rio 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, Del Rio agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Del Rio.

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

**FINDINGS OF FACT**

1. Del Rio owns and operates a public water system located in Del Rio, Val Verde County, Texas (the "Facility").

2. The Facility has more than 13,932 active service connections and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN CODE § 290.38(47).
3. During inspections conducted on February 12 and 13, 2007, and a record review conducted on February 12, 2007, a TCEQ Laredo Regional Office investigator documented that Del Rio failed to acquire plan approval by the Executive Director for service connections that require booster pumps taking suction from the public water system supply lines. Specifically, during the investigation, Del Rio failed to provide documentation to show that the system had approval from the Commission to allow the Virginia Street inline booster pump station to take suction directly from the public water supply lines.
4. During inspections conducted on February 12 and 13, 2007, and a record review conducted on February 12, 2007, a TCEQ Laredo Regional Office investigator documented that Del Rio failed to initiate a maintenance program to maintain the general appearance of the system's facilities and proper operation of the system's equipment. Specifically, during the investigation, the investigator documented that the pressure gauge on the suction side of the Virginia Street booster pump station no. 1 was inoperable, Bedell pump no. 1 was leaking and the waste lagoon contained excessive vegetation.
5. During inspections conducted on February 12 and 13, 2007, and a record review conducted on February 12, 2007, a TCEQ Laredo Regional Office investigator documented that Del Rio failed to provide the source water intake with an intruder-resistant fence. Specifically, during the investigation, the investigator documented that two sides of the fence around the east spring intake were approximately five feet in height and the entire fence did not have three strands of barb wire on the top of the fence.
6. During inspections conducted on February 12 and 13, 2007, and a record review conducted on February 12, 2007, a TCEQ Laredo Regional Office investigator documented that Del Rio failed to meet site-specific performance standards approved by the Executive Director for a membrane facility. Specifically, an April 3, 2001 TCEQ guidance document for monitoring, operating and reporting requirements for membrane installations requires that an alarm is required to sound if two consecutive readings exceed the 95<sup>th</sup> percentile confidence level for the preceding month's particle counts or if the particle count exceeds 10 particles per milliliter for two consecutive readings. A review of the supervisory control and data acquisition system by the investigator revealed that the alarms were set to sound if the particle count exceeds 2000 particles per milliliter.
7. During inspections conducted on February 12 and 13, 2007, and a record review conducted on February 12, 2007, a TCEQ Laredo Regional Office investigator documented that Del Rio

failed to submit additional documentation that the Executive Director may require to determine compliance. Specifically, during the investigation, the investigator requested documentation showing the number of equivalent living units for several apartment complexes that are serviced by one master meter in order to accurately calculate the water system's capacity requirements. The operator failed to provide the requested information.

8. During inspections conducted on February 12 and 13, 2007, and a record review conducted on February 12, 2007, a TCEQ Laredo Regional Office investigator documented that Del Rio failed to pay the general permit storm water fee (Financial Administration Account No. 20003966) for calendar year 2007.
9. Del Rio received notice of the violations on March 4, 2007.
10. The Executive Director recognizes that Del Rio paid its general permit storm water fee (Financial Administration Account No. 20003966) for calendar year 2007, but a \$1.54 interest charge which is still outstanding will be billed to Del Rio along with its 2008 general permit storm water fee.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Del Rio is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5.
2. As evidenced by Finding of Fact No. 3, Del Rio failed to acquire plan approval by the Executive Director for service connections that require booster pumps taking suction from the public water system supply lines in violation of 30 TEX. ADMIN. CODE § 290.44(d)(2) and TCEQ Agreed Order, Docket No. 2005-1777-PWS-E, IV. Ordering Provisions 2.a. and 2.b.
3. As evidenced by Finding of Fact No. 4, Del Rio failed to initiate a maintenance program to maintain the general appearance of the system's facilities and proper operation of the system's equipment in violation of 30 TEX. ADMIN. CODE § 290.46(m).
4. As evidenced by Finding of Fact No. 5, Del Rio failed to provide the source water intake with an intruder-resistant fence in violation of 30 TEX. ADMIN. CODE § 290.41(d)(4).
5. As evidenced by Finding of Fact No. 6, Del Rio failed to meet site-specific performance standards approved by the Executive Director for a membrane facility in violation of 30 TEX. ADMIN. CODE § 290.111(b)(1)(B).

6. As evidenced by Finding of Fact No. 7, Del Rio failed to submit additional documentation that the Executive Director may require to determine compliance in violation of 30 TEX. ADMIN. CODE § 290.46(f)(4)(A).
7. As evidenced by Finding of Fact No. 8, Del Rio failed to pay the general permit storm water fee (Financial Administration Account No. 20003966) for calendar year 2007 in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702.
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Del Rio for violations of TEX. HEALTH & SAFETY CODE, TCEQ rules, and orders adopted under the Code.
9. An administrative penalty in the amount of two thousand four hundred forty-eight dollars (\$2,448.00) 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). Two thousand four hundred forty-eight dollars (\$2,448.00) of the assessed administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. Del Rio's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

### **ORDERING PROVISIONS**

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

1. Del Rio is assessed an administrative penalty in the amount of two thousand four hundred forty-eight dollars (\$2,448.00) as set forth in Conclusion of Law No. 9 for violations of TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5 and the rules of the TCEQ. The payment of this administrative penalty and Del Rio'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 sent with the notation "Re: City of Del Rio; Docket No. 2007-0696-PWS-E; Enforcement ID No. 27041" 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. Del Rio shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Conclusion of Law No. 9, two thousand four hundred forty-eight dollars (\$2,448.00) of the assessed administrative penalty shall be offset with the condition that Del Rio implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein by reference. Del Rio's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. Del Rio shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of the this Agreed Order, Del Rio shall:
    - i. Initiate a maintenance program to maintain the general appearance of the system's facilities and maintain proper operation of the system's equipment, in accordance with 30 TEX. ADMIN. CODE § 290.46(m) that includes, but is not limited to, the following: Provide an operable pressure gauge on the suction side of the Virginia Street booster pump no. 1 station, repair the leak at Beddell pump no. 1 and remove the excessive vegetation at the waste lagoon;
    - ii. Provide an adequate intruder-resistant fence at the east spring source water intake, in accordance with 30 TEX. ADMIN. CODE § 290.41(d)(4);
    - iii. Submit documentation showing that the alarm points for the individual filter racks meet specified criteria listed in the April 3, 2001 TCEQ letter and attached guidance document ("Attachment B") for monitoring, operating, and reporting requirements for membrane installations in accordance with 30 TEX. ADMIN. CODE § 290.111(b)(1)(B); and
    - iv. Submit documentation showing the number of living units for each apartment complex that is serviced by a master meter.

- b. Within 45 days after the effective date of this Agreed Order, Del Rio shall submit certification for Ordering Provision Nos. 3.a.i. through 3.a.iv.
- c. Within 60 days of the effective date of this Agreed Order, Del Rio shall equip the inline booster pumps with an automatic pressure cut-off device and a pressure recorder device with battery power backup on the suction side of the booster pumps. The automatic pressure cut-off device shall be programmed so the pumping units will become inoperative when the suction pressure is less than 20 pounds per square inch ("psi").
- d. Within 75 days of the effective date of this Agreed Order, Del Rio shall test the automatic pressure cut-off device to assure accuracy of the pressure sensor to shut down the inline booster pumps at less than 20 psi.
- e. Within 90 days after the effective date of the Commission Order, Del Rio shall submit written certification of compliance with Ordering Provision Nos. 3.c. and 3.d.
- f. The certifications required by Ordering Provision Nos. 3.b. and 3.e. 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:

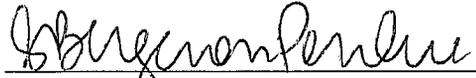
Rose Luna-Pirtle, Water Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Carlton Rd., Ste. 304  
Laredo, Texas 78041-3887

4. The provisions of this Agreed Order shall apply to and be binding upon Del Rio. Del Rio 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Del Rio shall be made in writing to the Executive Director. Extensions are not effective until Del Rio receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Del Rio if the Executive Director determines that Del Rio has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against Del Rio 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 the TEX. WATER CODE or the TEX. HEALTH & SAFETY CODE.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Order to Del Rio, or three days after the date on which the Commission mails notice of the Order to Del Rio, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



\_\_\_\_\_  
For the Executive Director

3/29/2008

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Del Rio. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of Del Rio, 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 Del Rio 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, 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, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

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

\_\_\_\_\_  
Efrain V. Valdez

\_\_\_\_\_  
Name (printed or typed)  
Authorized Representative

\_\_\_\_\_  
City of Del Rio

\_\_\_\_\_  
February 21, 2008

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Title

D.V.S.

**ATTACHMENT A**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

Attachment A  
Docket Number: 2007-0696-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** City of Del Rio

**Penalty Amount:** Two thousand four hundred forty-eight dollars (\$2,448)

**SEP Amount:** Two thousand four hundred forty-eight dollars (\$2,448)

**Type of SEP:** Pre-approved SEP

**Third-Party Recipient:** Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Water or Wastewater Assistance*

**Location of SEP:** Val Verde County

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the **Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")** for the *Water or Wastewater Assistance project* in Val Verde County. Specifically, SEP monies will pay for the labor and disposal costs associated with assistance to low-income residents with shallow, improperly designed, or contaminated drinking water wells or failing wastewater systems, or plugging of abandoned wells. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The wastewater portion of this SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.

- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

C. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
Attention: Eddi Darilek  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

City of Del Rio  
Agreed Order – Attachment A Docket No. 2007-0696-PWS-E

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and shall send it to "Texas Commission on Environmental Quality" and mailed to:

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

**5. Publicity**

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

**6. Clean Texas Program**

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

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

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

**ATTACHMENT B**

**APRIL 3, 2001 TCEQ LETTER AND  
ATTACHED GUIDANCE DOCUMENT**

Robert J. Huston, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
John M. Baker, *Commissioner*  
Jeffrey A. Saitas, *Executive Director*



# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

April 3, 2001

Mr. Rafael Castillo, City Manager  
Del Rio Utilities Commission  
109 West Broadway Street  
Del Rio, Texas 78840

INFORMATION 000

Subject: Monitoring and Reporting Requirements for WTP's using Membrane Filtration  
Del Rio Utilities Commission - PWS I.D. #2330001  
Val Verde County, Texas

Dear Mr. Rafael:

The Public Drinking Water Section recently finalized staff guidance documents for developing monitoring, operating and reporting requirements for public water systems using membrane filtration. These documents are enclosed. Please distribute them to your staff so that they may become familiar with the requirements. We are in the process of developing a Membrane Monthly Operating Report (MMOR) form and the accompanying instructions.

Since each membrane filtration plant is approved under site-specific conditions in Texas, the TNRCC shall enter into a Bilateral Agreement (BA) with each system using membrane filtration to meet the treatment technique requirements. We will develop and mail a draft copy of your BA for review and comment. Your final BA may contain all of the requirements within the enclosed PDW Staff Guidance document titled: Monitoring, Operating and Reporting Requirements for Membrane Installations, or additional requirements, or any proposed substitutions that are acceptable to the TNRCC. **In all cases, adequate monitoring shall be accomplished and reported to ensure that your membrane filtration plant is producing a continuous safe quality and adequate quantity of potable water.**

If you have any questions concerning this letter or the enclosed documents, please contact me at (512) 239-4798 or the commission's address.

Sincerely,

*James "Red" Weddell*  
James "Red" Weddell  
Public Drinking Water Section, MC - 155  
Water Permits & Resource Management Division

RECEIVED-TNRCC  
SAN ANTONIO REGION  
APR - 9 PM 1:18

Enclosures: Terms Defined for Review of Pilot Study Protocols and Reports for Membrane Filtration  
Monitoring, Operating and Reporting Requirements for Membrane Filtration

JSW

cc: TNRCC San Antonio Regional Office  
Mr. Terry Thompson, TNRCC Enforcement Division, MC - 149  
Mr. Richard H. Gerlach, P.E., CDM Houston Office

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

## PDW PROGRAM STAFF GUIDANCE

**Guidance Title:** Terms Defined for Review of Pilot Study Protocols and Reports for Membrane Filtration

**Rules Affected:** Title 30 TAC §290.42(f) and Title 30 TAC §290.111(b)(2)(B)

Page 1 of 1

**Filtrate flux ( $J_f$ ) =**  
(filtrate flow per rack in gpd) / (total membrane surface area per rack in sf)

**Transmembrane pressure (TMP) =**  
[(rack inlet pressure + rack outlet pressure in psi) / 2] - (filtrate pressure in psi)

**Specific flux ( $J_m$ ) =**  
(filtrate flux of a rack in gpd/sf) / (transmembrane pressure of a rack in psi)

**Specific flux at 20° C =**  
empirically derived equation developed by the membrane manufacturer

or  
 $J_m \cdot e^{[-0.0239] \cdot (\text{actual temperature} - 20)}$

**% System recovery =**  
(filtrate flow in gpd) / (feed flow in gpd)

**% Element recovery =**  
(filtrate flow in gpd) / (feed flow + recycle flow in gpd)

**% Recovery of production (MG of potable water available to customers per day) =**  
[(MG of total filtrate produce per day) - (MG of total backwash used per day)]

**% Recovery of specific flux (after a chemical clean-in-place (CIP)) =**  
100 \* [1 - (specific flux at end of a filtration run / specific flux at beginning of the next filtration run after a CIP)]

**% Loss of original specific flux =**  
100 \* [1 - (specific flux at beginning of any filtration run / specific flux at a time during the same filtration run)]

February 14, 2001

Effective Date

NA

Expiration Date

END

*Jack C. Schulze*

Jack C. Schulze, P.E., Acting Manager  
Public Drinking Water Section  
Water Permits & Resource Management  
Division

If no formal expiration date has been established for this staff guidance, it will remain in effect until superseded or amended.

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION****PDW PROGRAM STAFF GUIDANCE**

**Guidance Title:** Monitoring, Operating and Reporting Requirements for Membrane Installations

**Rules Affected:** Title 30 TAC, §290.46(e)(1) and 30 TAC, §290.111(b)(2)(B)

Page 1 of 6

**Background**

Systems that treat surface water or groundwater under the influence of surface water must achieve at least a 3.0-log (99.9%) removal or inactivation of *Giardia lamblia* cysts and a 4.0-log (99.99%) removal or inactivation of viruses. Beginning January 1, 2002 these systems must also achieve a 2.0-log (99%) removal of *Cryptosporidium parvum* oocysts. Water treatment plants achieve these treatment technique requirements through a combination of physical and chemical processes.

When membrane technologies are used to meet any portion of these requirements, 30 TAC §290.111(b) requires the facilities to meet site-specific performance standards that are set by the executive director. In addition, these membrane facilities must be under the daily supervision of certified waterworks operator as required by 30 TAC §290.46(e).

**Purpose of this PDW Program Staff Guidance**

This Staff Guidance document is intended to help Public Drinking Water (PDW) staff members prepare a site-specific Bilateral Agreement and Membrane Plant Monthly Operational Report (MMOR) form for a public water system (PWS) that uses membrane technology to treat surface water or ground water under the direct influence of surface water. In addition, the Staff Guidance may be used (in conjunction with the Bilateral Agreement and MMOR) by field inspectors during the sanitary survey of membrane installations.

**SUPERVISION**

- I. The membrane installations at PWS must be operated under the direct daily supervision of a competent, qualified water works operator.
  - A. Membrane installations used to treat surface water must be operated under the direct supervision of certified Class C or higher surface water operator at all times.
  - B. Membrane installations used to treat ground water that is under the direct influence of surface water must be operated under the direct supervision of certified Class C or higher surface water operator at all times if a coagulant is applied at any stage of treatment or pretreatment.

continued

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION****PDW PROGRAM STAFF GUIDANCE**

**Guidance Title:** Monitoring, Operating and Reporting Requirements for Membrane Installations

**Rules Affected:** Title 30 TAC, §290.46(e)(1) and 30 TAC, §290.111(b)(2)(B)

Page 2 of 6

- C. If a coagulant is not applied at any stage of treatment or pretreatment, membrane installations used to treat ground water that is under the direct influence of surface water must be operated under the direct supervision of either of the following operators at all times:
1. A certified Class C or higher surface water operator; or,
  2. A certified Class C or higher ground water operator that is familiar with the monthly monitoring and reporting requirements for systems treating groundwater that is under the direct influence of surface water.
- II. A qualified operator must be present at membrane installations during all routine and corrective maintenance activities and during abnormal operating conditions.
- A. The operator must be present during any time that a chemical clean-in-place (CIP) procedure is performed.
  - B. The operator must be present when any repairs to a membrane module are made.
  - C. The operator must be present any time that a physical integrity test is performed on a membrane rack.
  - D. The operator must be present any time that changes are made to the treatment process.
- III. A qualified operator must be present at membrane installations whenever water is being treated unless the membrane plant is provided with continuous monitors, alarms, and shutdowns.

**MONITORING AND OPERATION**

- I. All process-control tests shall be conducted that are necessary to properly operate a water treatment plant using membrane filtration to treat surface water or ground water under the direct influence of surface water.

continued

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION****PDW PROGRAM STAFF GUIDANCE**

**Guidance Title:** Monitoring, Operating and Reporting Requirements for Membrane Installations

**Rules Affected:** Title 30 TAC, §290.46(e)(1) and 30 TAC, §290.111(b)(2)(B)

Page 3 of 6

- II.** The combined filter effluent turbidity levels shall be monitored and recorded at least once every four hours with a turbidimeter that uses nephelometric methods or Great Lakes Instruments Method 2.
- III.** The performance of each rack of membrane modules shall be monitored and recorded at least once every 15 minutes.
- A.** If microfiltration or ultrafiltration membranes are used, the performance of individual membrane racks shall be monitored with a particle counter, particle monitor, or Hach's FilterTrak laser turbidimeter (Model HF660).
1. If a particle counter or particle monitor is used to track the performance of an individual membrane rack, the following standards must be met.
    - a. The particle counter/monitor must be capable of accurately counting the total number of particles that are 2 - 15 microns in diameter.
    - b. The particle counter/monitor must be calibrated in accordance with the manufacturer's recommendations at least once each year. In lieu of a complete annual calibration, the calibration of each particle counter may be verified quarterly using a single "standard" of known concentration.
  2. If a FilterTrak laser turbidimeter is used to monitor the performance of an individual membrane rack, the unit must be calibrated with a primary standard at least once every 90 days.
- B.** If nanofiltration or reverse osmosis membranes are used, the performance of individual membrane racks shall either be monitored in accordance with the provisions of Section III.A. above or the conductivity or total dissolved solids of the water produced by each rack of membrane modules shall be monitored. If conductivity or dissolved solids meters are used, the instruments shall be calibrated with solutions of known concentrations at least once every 90 days.

continued

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION****PDW PROGRAM STAFF GUIDANCE**

**Guidance Title:** Monitoring, Operating and Reporting Requirements for Membrane Installations

**Rules Affected:** Title 30 TAC, §290.46(e)(1) and 30 TAC, §290.111(b)(2)(B)

Page 4 of 6

- IV. The operator shall monitor and record the performance of each rack of membrane modules at least once each day.
- A. The operator shall monitor and record the flow rates of the feed water, filtrate water, recirculating water (crossflow mode), and any reject water for each rack of membrane modules at least once each day.
  - B. The operator shall monitor and record the pressure level at the influent header, the effluent header, and filtrate waterline of each membrane rack at least once each day. The public water system shall also calculate and record the transmembrane pressure (TMP) for each rack of membrane modules at least once each day.
  - C. The operator shall verify the correct backwash water flow rate, cycle, and duration for each rack of membrane modules at least once each day.
  - D. The operator shall monitor and record the total quantity of raw water treated by the plant, the total amount of treated water discharged to the distribution system, and the total amount of backwash water used by the plant once each day.
  - E. The operator shall calculate and record the average filtrate flux for each rack of membrane modules once each day.
  - F. The operator shall calculate and record the average specific flux, temperature adjusted to 20° C, for each rack of membrane modules once each day.
- V. The operator shall perform direct physical integrity testing of each rack of membrane modules at least once every seven days and after each chemical clean-in-place. The physical integrity test must be conducted using a method approved by the TNRCC.
- VI. An alarm system shall be maintained to summon the operators in the event of an apparent degradation in filtered water quality.

continued

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION****PDW PROGRAM STAFF GUIDANCE**

**Guidance Title:** Monitoring, Operating and Reporting Requirements for Membrane Installations

**Rules Affected:** Title 30 TAC, §290.46(e)(1) and 30 TAC, §290.111(b)(2)(B)

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- A. If a particle counter or particle monitor is used to track the performance of an individual membrane rack, the alarm must summon the operators if an individual particle counter/monitor has two consecutive readings that exceed the 95<sup>th</sup> percentile confidence level for the preceding month's particle counts. In lieu of setting a 95<sup>th</sup> percentile confidence interval each month, the plant may set the alarm so that it summons the operators if the particle count rises above 10 particles per milliliter for two consecutive readings.
- B. If a FilterTrak laser turbidimeter is used to monitor the performance of an individual membrane rack, the alarm must be set so that it summons the operators if the turbidity level rises above 0.15 NTU for two consecutive readings.
- C. If conductivity or dissolved solids meters is used, the alarm must be set so that it summons the operator if there is a 10% increase in the conductivity or total dissolved solids concentration of the water.
- VII. Unless an operator is present at a membrane installation whenever water is being treated, an automatic system shall be maintained to take individual membrane racks out of service in the event of a serious degradation in filtered water quality.
- A. If a particle counter or particle monitor is used to track the performance of an individual membrane rack, the automatic system must automatically take a membrane rack out of service if the particle count for that rack rises above 50 particles per milliliter for two consecutive readings.
- B. If a FilterTrak laser turbidimeter is used to monitor the performance of an individual membrane rack, the automatic system must automatically take a membrane rack out of service if the turbidity level for that rack rises above 0.30 NTU for two consecutive readings.
- C. If conductivity or dissolved solids meters are used, the automatic system must automatically take a membrane rack out of service if there is a 25% increase in the conductivity or total dissolved solids concentration of the filtered water.

continued

**TEXAS NATURAL RESOURCE CONSERVATION COMMISSION**

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**REPORTING REQUIREMENTS**

- I. The operator shall complete and submit a MMOR containing the data needed to demonstrate that the plant is producing water that meets all state and federal requirements for public water systems.

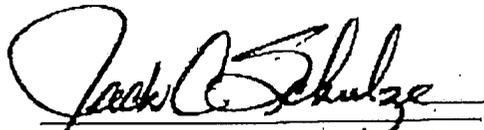
**END**

March 1, 2001

Effective Date

NA

Expiration



Jack C. Schulze, P.E., Acting Manager  
Public Drinking Water Section  
Water Permits & Resource Management  
Division

If no formal expiration date has been established for this staff guidance, it will remain in effect until superseded or canceled.