

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0004-PWS-E **TCEQ ID:** RN103783056 **CASE NO.:** 36968

**RESPONDENT NAME:** City of Electra

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Electra, 405 South Bailey Street, Electra, Wichita County</p> <p><b>TYPE OF OPERATION:</b> Municipal public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on October 8, 2008, alleging that the water supplied by the Respondent was discolored. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 6, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Glen Branch, Mayor, City of Electra, 101 North Main, Electra, Texas 76360  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> October 8, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> October 10, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 21, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failure to operate the Facility's disinfection equipment to maintain a minimum total chlorine residual of 0.5 per liter ("mg/L") throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(2) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$215</p> <p><b>Total Deferred:</b> \$43  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$172</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on October 11, 2008, the Respondent flushed the water lines throughout the distribution system and increased the total chlorine residual to 2.6 mg/L at the location where the low disinfectant residual was measured on the date of the investigation.</p>

Additional ID No(s): PWS ID No. 2430002



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	24-Nov-2008			
	<b>PCW</b>	23-Dec-2008	<b>Screening</b>	23-Dec-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	City of Electra				
<b>Reg. Ent. Ref. No.</b>	RN103783056				
<b>Facility/Site Region</b>	3-Abilene	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	36968	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2009-0004-PWS-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rebecca Clausewitz		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$250</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	11.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$27

**Notes** The compliance history adjustment is due to one prior Notice of Violation (NOV) containing a violation that is the same as the violation in the current enforcement action and three NOV's containing dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$62</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$100  
 Approx. Cost of Compliance \$100  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$215</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	<b>\$215</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$215</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$43</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$172</b>
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Screening Date 23-Dec-2008

Docket No. 2009-0004-PWS-E

PCW

Respondent City of Electra

Policy Revision 2 (September 2002)

Case ID No. 36968

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103783056

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 11%

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

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

## &gt;&gt; Compliance History Summary

**Compliance History Notes**

The compliance history adjustment is due to one prior Notice of Violation (NOV) containing a violation that is the same as the violation in the current enforcement action and three NOVs containing dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 11%

**Screening Date** 23-Dec-2008 **Docket No.** 2009-0004-PWS-E **PCW**  
**Respondent** City of Electra *Policy Revision 2 (September 2002)*  
**Case ID No.** 36968 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103783056  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Rebecca Clausewitz

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(2) and Tex. Health & Safety Code § 341.0315(c)  
**Violation Description** Failed to operate the Facility's disinfection equipment to maintain a minimum total chlorine residual of 0.5 milligrams per liter ("mg/L") throughout the distribution system at all times. Specifically, on the date of the investigation, a total chlorine residual of 0.03 mg/L was measured at the fire hydrant located at the volunteer fire department on Highway 25.

**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="25%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	

**>> 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 a minimum disinfectant residual throughout the distribution system at all times could result in customers of the water system becoming exposed to significant amounts of contaminants in the improperly treated water, 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 with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="X"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

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

**Notes** The Respondent flushed the system and corrected the low residual on October 11, 2008.

**Violation Subtotal**

**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 Electra  
**Case ID No.** 36968  
**Reg. Ent. Reference No.** RN103783056  
**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
No commas or \$							

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	10-Oct-2008	10-Oct-2008	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount for additional maintenance and oversight that could have alleviated the violation, calculated for the date the low disinfectant residual was measured.

Approx. Cost of Compliance

\$100

TOTAL

\$100

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600655534 City of Electra Classification: AVERAGE Rating: 2.44  
Regulated Entity: RN103783056 CITY OF ELECTRA Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2430002  
Location: 405 S BAILEY ST, ELECTRA, WICHITA COUNTY, TX, 76360  
TCEQ Region: REGION 03 – ABILENE Rating Date: 9/1/2008 Repeat Violator: No  
Date Compliance History Prepared: December 22, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 22, 2003 to December 22, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Rebecca Clausewitz Phone: (210) 403-4012

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |    |            |          |
|----|------------|----------|
| 1  | 08/27/2004 | (292613) |
| 2  | 10/06/2004 | (336783) |
| 3  | 10/22/2004 | (338768) |
| 4  | 11/12/2004 | (340952) |
| 5  | 08/25/2005 | (407127) |
| 6  | 06/02/2006 | (465247) |
| 7  | 08/02/2007 | (645519) |
| 8  | 08/31/2007 | (573541) |
| 9  | 01/29/2008 | (616195) |
| 10 | 03/25/2008 | (639954) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |  |          |                 |       |
|--------------|--|----------|-----------------|-------|
| Date:        | 08/26/2004   | (292613) | Classification: | Minor |
| Self Report? | NO   |          |                 |       |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(C)     |          |                 |       |
| Description: | Failure to install backflow prevention devices.      |          |                 |       |
| Self Report? | NO   |          | Classification: | Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iv) |          |                 |       |
| Description: | Failure to maintain calibration records.             |          |                 |       |



Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
Description: Failure to provide intruder resistant fencing around wells.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)  
Description: Failure to restrict livestock access around wells.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)  
Description: Failure to provide rate-of-flow controllers on gravity filters.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)(A)  
Description: FAILURE TO PROVIDE 85% CAPACITY REPORT FOR GROUND AND CLEARWELL STORAGE FACILITIES.

Date: 06/01/2006 (465247) CN600655534  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)  
Description: FAILURE TO MAINTAIN 0.250 MG ELEVATED TANK (RAILROAD STREET)...TANK LEAKING

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(E)(ii)  
Description: FAILURE TO INSTALL IFE MONITORING EQUIPMENT ON FILTERS AT RIVER PLANT

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(c)(1)  
Description: FAILURE TO SUBMIT TREATMENT PROCESS PLAN FOR RIVER PLANT

Date: 08/02/2007 (645519) CN600655534  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)  
Description: BACT - ACUTE MCL

Date: 08/31/2007 (573541) CN600655534  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)  
Description: FAILURE TO MAINTAIN 0.250 MG ELEVATED TANK (RAILROAD STREET)...TANK LEAKING

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(c)(1)  
Description: FAILURE TO SUBMIT TREATMENT PROCESS PLAN FOR RIVER PLANT

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
Description: Failure to properly seal and vent well #26, 27, and 28.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
30 TAC Chapter 290, SubChapter D 290.42(m)  
Description: Failure to provide an intruder resistant fence at completed well sites and at the River Plant.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)(ii)  
Description: Failure to equip each filter with a rate-of-flow controller.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(ii)  
Description: Failure to equip each the filter backwash system with a rate-of-flow controller.



Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)  
Description: Failure to lock the hatch on the 0.07 million gallon (MG) clearwell at the River Plant.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)  
Description: Failure to provide required backflow assemblies.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)  
Description: Failure to maintain the required minimum disinfectant level.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)  
Description: Failure to maintain calibration records.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to provide maintenance.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)  
Description: Failure to calibrate the online Individual Filter Effluent turbidimeters at the River Plant.

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 ELECTRA  
RN103783056

§  
§  
§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-0004-PWS-E

### I. JURISDICTION AND STIPULATIONS

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

1. The City owns and operates a municipal public water supply at 405 South Bailey Street in Electra, Wichita County, Texas (the "Facility") that has approximately 1,355 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about November 26, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Hundred Fifteen Dollars (\$215) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid One Hundred Seventy-Two Dollars (\$172) of the administrative penalty and Forty-Three Dollars (\$43) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that on October 11, 2008, the City flushed the water lines throughout the distribution system and increased the total chlorine residual to 2.6 milligrams per liter ("mg/L") at the location where the low disinfectant residual was measured on the date of the investigation.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to operate the Facility's disinfection equipment to maintain a minimum total chlorine residual of 0.5 mg/L throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(2) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on October 10, 2008.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Electra, Docket No. 2009-0004-PWS-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John S. Sullivan  
For the Executive Director

3/9/2009  
Date

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

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

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

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

Glen Branch  
Signature

January 20, 2009  
Date

Glen Branch  
Name (Printed or typed)  
Authorized Representative of  
City of Electra

Mayor  
Title

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