

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0030-PWS-E TCEQ ID: RN101276863 CASE NO.: 31699**

**RESPONDENT NAME: City of La Joya**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of La Joya, one-tenth of a mile west of Farm-to-Market Road 2221 on Highway 83, La Joya, Hidalgo County</p> <p><b>TYPE OF OPERATION:</b> Public municipal water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 15, 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. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Billy Leo, Mayor, City of La Joya, P.O. Box H, La Joya, Texas 78560-0180                      Mr. Isidro Venecia, Jr., Water Plant Director, City of La Joya, P.O. Box H, La Joya, Texas 78560-0180  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" 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> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 27, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 8, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to provide treatment facility capacity that is not less than the anticipated maximum daily demand of the water system. Specifically, based on water system operating records from September 2007 through August 2008, the Facility exceeded the maximum daily demand by 12% on November 7, 2007, 4% on December 1, 2007, and 3% on January 14, 2008 [30 TEX. ADMIN. CODE § 290.45(a)(6), TEX. HEALTH &amp; SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1986-PWS-E, Ordering Provision No. 2.a.i].</p> <p>2) Failure to provide a raw water pump capacity of 0.6 gallons per minute ("gpm") per connection with the largest pump out of service. Specifically, at the time of the investigation, the system was providing a raw water pump capacity of 550 gpm with the largest pump out of service, which is a 3% less than the 567 gpm required for 945 connections [30 TEX. ADMIN. CODE § 290.45(b)(2)(A), TEX. HEALTH &amp; SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1986-PWS-E, Ordering Provision No. 2.a.iii].</p> <p>3) Failure to initiate maintenance housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, at the time of the</p>	<p><b>Total Assessed:</b> \$2,511</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,511</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> This is a Findings Order because it involves violations of a prior Agreed Order, which demonstrates indifference to legal duty.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the water system's facilities and equipment, including but not limited to, removing the debris and cleaning the grounds around the water system's elevated storage tank.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance that demonstrates compliance with Ordering Provision a.</p> <p>c. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Ensure that customer service inspection certificates are completed and properly maintained on file prior to providing continuous water service to new construction, or any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazard exists, or after any material improvement, correction, or addition to the private water distribution facilities; and</p> <p>ii. Install a containment facility for the 250 gallon liquid ammonia tank large enough to hold the maximum amount of chemical that can be stored with minimum freeboard of six vertical inches or to hold 110% of the total volume of the ammonia tank.</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision c.</p> <p>e. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Provide treatment facility capacity sufficient to meet the anticipated maximum daily demand of the Facility; and</p>

<p>investigation, it was documented that debris, discarded containers, fencing materials and pieces of plastic piping were noted within the fenced area of the elevated storage tank [30 TEX. ADMIN. CODE § 290.46(m)].</p> <p>4) Failure to provide containment facilities for a single container or for multiple interconnected containers large enough to hold the maximum amount of chemical that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less. Specifically, at the time of the investigation, it was documented that the 250 gallon liquid ammonia container had a secondary containment capacity of only 75 gallons [30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)(I)].</p> <p>5) Failure to maintain customer service inspection certificates prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities [30 TEX. ADMIN. CODE § 290.46(j)].</p>		<p>ii. Provide a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service.</p> <p>f. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e.</p>
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Additional ID No(s): PWS ID No. 1080213





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	15-Dec-2008	Screening	7-Jan-2009	EPA Due	
	PCW	5-Jan-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of La Joya
Reg. Ent. Ref. No.	RN101276863
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	31699	No. of Violations	5
Docket No.	2009-0030-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

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

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: The penalty enhancement is due to four prior NOVs for the same or similar violations as those in the current enforcement action, one dissimilar NOV, and two agreed final enforcement orders containing a denial of liability.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 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.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

Screening Date 7-Jan-2009

Docket No. 2009-0030-PWS-E

PCW

Respondent City of La Joya

Policy Revision 2 (September 2002)

Case ID No. 31699

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101276863

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

## 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)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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) 62%

## &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 penalty enhancement is due to four prior NOVs for the same or similar violations as those in the current enforcement action, one dissimilar NOV, and two agreed final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 62%

<b>Screening Date</b> 7-Jan-2009	<b>Docket No.</b> 2009-0030-PWS-E	<b>PCW</b>
<b>Respondent</b> City of La Joya		Policy Revision 2 (September 2002)
<b>Case ID No.</b> 31699		PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b> RN101276863		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Yuliya Dunaway		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.45(a)(6), Tex. Health & Safety Code § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1986-PWS-E, Ordering Provision No. 2.a.i	
<b>Violation Description</b>	Failed to provide treatment facility capacity that is not less than the anticipated maximum daily demand of the water system. Specifically, based on water system operating records from September 2007 through August 2008, the Facility exceeded the maximum daily demand by 12% on November 7, 2007, 4% on December 1, 2007, and 3% on January 14, 2008.	
	<b>Base Penalty</b>	\$1,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
	<b>Harm</b>	
	Release    Major    Moderate    Minor	
OR	Actual	
	Potential	x
	<b>Percent</b>	10%
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification    Major    Moderate    Minor	
		<b>Percent</b>
		0%
<b>Matrix Notes</b>	Exceeding the rated capacity could result in inadequately treated water which could expose customers of the water system to a significant amount of contaminants which would not exceed levels that are protective of human health as a result of the violation.	
	<b>Adjustment</b>	\$900
		\$100
<b>Violation Events</b>		
<b>Number of Violation Events</b>	6	<b>Number of violation days</b>
	516	
	daily	
	weekly	
	monthly	
mark only one with an x	quarterly	x
	semiannual	
	annual	
	single event	
	<b>Violation Base Penalty</b>	\$600
	Six quarterly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2006-1986-PWS-E, August 10, 2007, to the date of screening, January 7, 2009.	
<b>Good Faith Efforts to Comply</b>		
	0.0% Reduction	\$0
	Before NOV    NOV to EDPRP/Settlement Offer	
Extraordinary		
Ordinary		
N/A	x	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
	<b>Violation Subtotal</b>	\$600
<b>Economic Benefit (EB) for this violation</b>		
<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$8,093	<b>Violation Final Penalty Total</b>
		\$972
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
		\$972

## Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 31699  
**Reg. Ent. Reference No.** RN101276863  
**Media** Public Water Supply  
**Violation No.** 1

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

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

**Delayed Costs**

Equipment	\$50,000	10-Aug-2007	1-Dec-2009	2.31	\$385	\$7,708	\$8,093
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**  
 The delayed costs include the amount to provide sufficient capacity to meet the requirements of the water system, calculated from the effective date of TCEQ Agreed Order Docket No. 2006-1986-PWS-E to the estimated date of compliance.

**Avoided Costs**

<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$50,000	<b>TOTAL</b>	\$8,093
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<b>Screening Date</b> 7-Jan-2009	<b>Docket No.</b> 2009-0030-PWS-E	<b>PCW</b>														
<b>Respondent</b> City of La Joya		Policy Revision 2 (September 2002)														
<b>Case ID No.</b> 31699		PCW Revision October 30, 2008														
<b>Reg. Ent. Reference No.</b> RN101276863																
<b>Media [Statute]</b> Public Water Supply																
<b>Enf. Coordinator</b> Yuliya Dunaway																
<b>Violation Number</b> <input type="text" value="2"/>																
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.45(b)(2)(A), Tex. Health & Safety Code § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1986-PWS-E, Ordering Provision No. 2.a.iii															
<b>Violation Description</b>	Failed to provide a raw water pump capacity of 0.6 gallon per minute ("gpm") per connection with the largest pump out of service. Specifically, at the time of the investigation, the system was providing a raw water pump capacity of 550 gpm with the largest pump out of service, which is a 3% less than the 567 gpm required for 945 connections.															
	<b>Base Penalty</b>	<input type="text" value="\$1,000"/>														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
OR	<b>Harm</b>															
	Release    Major    Moderate    Minor															
	Actual	<input type="text"/>	<input type="text"/>													
	Potential	<input type="text" value="x"/>														
	<b>Percent</b>	<input type="text" value="5%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																
	Falsification    Major    Moderate    Minor															
	<input type="text"/>	<input type="text"/>														
	<b>Percent</b>	<input type="text" value="0%"/>														
<b>Matrix Notes</b>	Without sufficient capacity, the customers of the water supply could experience water shortages and outages exposing customers to an insignificant amount of contaminants which would not exceed levels protective of human health.															
	<b>Adjustment</b>	<input type="text" value="\$950"/>														
		<input type="text" value="\$50"/>														
<b>Violation Events</b>																
	<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="516"/> <b>Number of violation days</b>														
mark only one with an x	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">weekly</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x	<b>Violation Base Penalty</b> <input type="text" value="\$50"/>
daily																
weekly																
monthly																
quarterly																
semiannual																
annual																
single event	x															
	One single event is recommended.															
<b>Good Faith Efforts to Comply</b>																
	<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>														
	Before NOV    NOV to EDPRP/Settlement Offer															
Extraordinary																
Ordinary																
N/A	x	(mark with x)														
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.															
	<b>Violation Subtotal</b>	<input type="text" value="\$50"/>														
<b>Economic Benefit (EB) for this violation</b>																
	<b>Estimated EB Amount</b> <input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$81"/>														
	<b>Statutory Limit Test</b>															
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$81"/>															

## Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 31699  
**Reg. Ent. Reference No.** RN101276863  
**Media** Public Water Supply  
**Violation No.** 2

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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** The economic benefit is included with violation No. 1.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** \$0 **TOTAL** \$0

<p><b>Screening Date</b> 7-Jan-2009  <b>Respondent</b> City of La Joya  <b>Case ID No.</b> 31699  <b>Reg. Ent. Reference No.</b> RN101276863  <b>Media [Statute]</b> Public Water Supply  <b>Enf. Coordinator</b> Yuliya Dunaway  <b>Violation Number</b> <input type="text" value="3"/>  <b>Rule Cite(s)</b> <input type="text" value="30 Tex. Admin. Code § 290.46(m)"/></p>	<p><b>Docket No.</b> 2009-0030-PWS-E  <b>PCW</b>  <i>Policy Revision 2 (September 2002)</i>  <i>PCW Revision October 30, 2008</i></p>																																									
<p><b>Violation Description</b> <input type="text" value="Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, at the time of the investigation, it was documented that debris, discarded containers, fencing materials and pieces of plastic piping were noted within the fenced area of the elevated storage tank."/></p>																																										
<p><b>Base Penalty</b> <input type="text" value="\$1,000"/></p>																																										
<p><b>&gt;&gt; Environmental, Property and Human Health Matrix</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="3" style="width:10%; text-align: center; vertical-align: middle;"><b>OR</b></td> <td colspan="3" style="text-align: center;"><b>Harm</b></td> <td rowspan="3" style="width:10%;"></td> </tr> <tr> <td style="width:15%; text-align: center;">Release</td> <td style="width:15%; text-align: center;">Major</td> <td style="width:15%; text-align: center;">Moderate</td> <td style="width:15%; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text" value="x"/></td> <td><input type="text"/></td> </tr> <tr> <td colspan="4"></td> <td style="text-align: right;"><b>Percent</b> <input type="text" value="5%"/></td> </tr> </table>		<b>OR</b>	<b>Harm</b>				Release	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		Potential	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>					<b>Percent</b> <input type="text" value="5%"/>																		
<b>OR</b>	<b>Harm</b>																																									
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## Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 31699  
**Reg. Ent. Reference No.** RN101276863  
**Media** Public Water Supply  
**Violation No.** 3

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

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	27-Oct-2008	1-Jul-2009	0.68	\$1	\$14	\$14
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

The delayed costs include the amount to remove the debris and clean out the grounds around the elevated storage tank, calculated from the date of the investigation to the estimated date of compliance.

**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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$300

TOTAL \$14

<b>Screening Date</b> 7-Jan-2009	<b>Docket No.</b> 2009-0030-PWS-E	<b>PCW</b>
<b>Respondent</b> City of La Joya		Policy Revision 2 (September 2002)
<b>Case ID No.</b> 31699		PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b> RN101276863		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Yuliya Dunaway		
<b>Violation Number</b>	4	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.42(f)(1)(E)(ii)(I)	
<b>Violation Description</b>	Failed to provide containment facilities for a single container or for multiple interconnected containers large enough to hold the maximum amount of chemical that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less. Specifically, at the time of the investigation, it was documented that the 250 gallon liquid ammonia container had a secondary containment capacity of only 75 gallons.	
	<b>Base Penalty</b>	\$1,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
	Harm	
	Major	Moderate
OR	Minor	
<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Potential</b>	x	<input type="checkbox"/>
	<b>Percent</b>	25%
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification	
	Major	Moderate
	Minor	
<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Potential</b>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>Percent</b>	0%
<b>Matrix Notes</b>	Failure to provide proper containment facilities for the chemical tank could expose employees of the water system to a significant amount of contaminants which would exceed levels that are protective of human health.	
	<b>Adjustment</b>	\$750
		\$250
<b>Violation Events</b>		
<b>Number of Violation Events</b>	3	<b>Number of violation days</b>
	72	
	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	x
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
mark only one with an x		<b>Violation Base Penalty</b>
		\$750
Three monthly events are recommended from the date of the investigation, October 27, 2008, to the date of screening, January, 7, 2009.		
<b>Good Faith Efforts to Comply</b>		
	0.0% Reduction	\$0
	Before NOV	NOV to EDPRP/Settlement Offer
<b>Extraordinary</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Ordinary</b>	<input type="checkbox"/>	<input type="checkbox"/>
<b>N/A</b>	x	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
	<b>Violation Subtotal</b>	\$750
<b>Economic Benefit (EB) for this violation</b>		
<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$37	<b>Violation Final Penalty Total</b>
		\$1,215
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,215

## Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 31699  
**Reg. Ent. Reference No.** RN101276863  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$700	27-Oct-2008	1-Aug-2009	0.76	\$2	\$36	\$37
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

The delayed costs include the amount to provide adequate secondary containment for the liquid ammonia container, calculated from the date of the investigation to the estimated date of compliance.

**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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$700

TOTAL \$37

<p><b>Screening Date</b> 7-Jan-2009  <b>Respondent</b> City of La Joya  <b>Case ID No.</b> 31699  <b>Reg. Ent. Reference No.</b> RN101276863  <b>Media [Statute]</b> Public Water Supply  <b>Enf. Coordinator</b> Yuliya Dunaway  <b>Violation Number</b> <input type="text" value="5"/>  <b>Rule Cite(s)</b> <input type="text" value="30 Tex. Admin. Code § 290.46(j)"/>  <b>Violation Description</b> <input type="text" value="Failed to maintain customer service inspection certificates prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities."/></p>	<p><b>Docket No.</b> 2009-0030-PWS-E  <b>PCW</b>  <i>Policy Revision 2 (September 2002)</i>  <i>PCW Revision October 30, 2008</i></p>																					
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Estimated EB Amount	<input type="text" value="\$11"/>	<b>Statutory Limit Test</b>																				
		Violation Final Penalty Total	<input type="text" value="\$162"/>																			
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$162"/>																			

## Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 31699  
**Reg. Ent. Reference No.** RN101276863  
**Media** Public Water Supply  
**Violation No.** 5

<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
<b>Delayed Costs</b>							
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	\$300	27-Oct-2008	1-Aug-2009	0.76	\$11	n/a	\$11
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**  
 The delayed costs include the amount to maintain customer service inspection certificates and make them available at the time of Commission inspections, calculated from the date of the investigation to the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$300 TOTAL \$11

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600704639	City of La Joya	Classification: AVERAGE	Rating: 8.39
Regulated Entity:	RN101276863	CITY OF LA JOYA	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1080213	
	WATER LICENSING	LICENSE	1080213	
Location:	Highway 83 & Approximately 0.1 Mi. West of Farm-to-Market 2221, Hidalgo County, TX			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	January 07, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 07, 2004 to January 07, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Yuliya Dunaway	Phone:	210-403-4077	

### 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 |
| 6.   |     |

### 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: 04/10/2005	ADMINORDER 2004-0831-PWS-E
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F) 5A THC Chapter 341, SubChapter A 341.0315(c)	
Description: Failure to provide two or more service pumps with a total capacity of 2.0 gallons per minute (gpm) per connection, or a total capacity of 1,000 gpm and be able to meet peak hourly demands with the largest pump out of service.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter F 290.113(b)(1) 30 TAC Chapter 290, SubChapter F 290.113(f)(4) 5A THC Chapter 341, SubChapter A 341.0315(c)	
Description: Failure to comply with the maximum contaminant level (MCL) of 0.080 milligrams per liter (mg/l) based on a running annual average for total trihalomethanes (TTHM).	
Classification: Minor	
Citation: 2A TWC Chapter 5, SubChapter A 5.702 30 TAC Chapter 21 21.4(g)	
Description: Failure to pay outstanding Consolidated Water Quality Fees.	
Effective Date: 08/10/2007	ADMINORDER 2006-1986-PWS-E
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)(6) 5A THC Chapter 341, SubChapter A 341.0315(c)	
Rqmt Prov: OP 2.a.i ORDER	
Description: Failure to provide a treatment plant capacity which meets the facility's maximum daily demand.	
Classification: Moderate	
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B) 5A THC Chapter 341, SubChapter A 341.0315(c)	
Rqmt Prov: OP 2.a.ii ORDER	
Description: Failure to provide a treatment plant capacity of 0.6 gallon per minute per connection under normal flow rated design.	

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: OP 2.a.iii ORDER

Description: Failure to provide a raw water pump capacity of 0.6 gallon per minuter per connection with the largest pump out service.

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	01/30/2004	(261188)
2	04/20/2004	(275112)
3	05/18/2004	(271550)
4	11/01/2004	(335582)
5	10/28/2005	(432376)
6	03/02/2006	(457831)
7	05/16/2006	(438053)
8	11/03/2006	(516348)
9	11/28/2007	(598037)
10	12/08/2008	(703231)

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

Date: 01/30/2004 (261188)

CN600704639

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide two or more service pumps with a total capacity of 2.0 gallons per minute (gpm) per connection, or a total capacity of 1,000 gpm and be able to meet peak hourly demands with the largest pump out of service.

Date: 10/29/2004 (335582)

CN600704639

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide two or more service pumps with a total capacity of 2.0 gallons per minute (gpm) per connection, or a total capacity of 1,000 gpm and be able to meet peak hourly demands with the largest pump out of service.

Date: 10/28/2005 (432376)

CN600704639

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)(6)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
OP 2.a.i ORDER

Description: Failure to provide a treatment plant capacity which meets the facility's maximum daily demand.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
OP 2.a.ii ORDER

Description: Failure to provide a treatment plant capacity of 0.6 gallon per minute per connection under normal flow rated design.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
OP 2.a.iii ORDER

Description: Failure to provide a raw water pump capacity of 0.6 gallon per minuter per connection with the largest pump out service.

Date: 08/28/2006 (497558)

CN600704639

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of

the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Date: 11/28/2007 (598037)

CN600704639

Self Report? NO

Classification: Minor

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

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

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 LA JOYA  
RN101276863

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-0030-PWS-E

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

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

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

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

### I. FINDINGS OF FACT

1. The City owns and operates a public municipal water supply one-tenth of a mile west of Farm-to-Market Road 2221 on Highway 83 in La Joya, Hidalgo County, Texas (the "Facility") that has approximately 945 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation on October 27, 2008, TCEQ staff documented that the City provided treatment facility capacity that is less than the anticipated maximum daily demand of the water system. Specifically, based on water system operating records from September 2007 through August 2008, the Facility exceeded the maximum daily demand by 12% on November 7, 2007, 4% on December 1, 2007, and 3% on January 14, 2008.
3. During an investigation on October 27, 2008, TCEQ staff documented that the City did not provide a raw water pump capacity of 0.6 gallon per minute ("gpm") per connection with the largest pump out of service. Specifically, at the time of the investigation, the system was providing a raw water pump capacity of 550 gpm with the largest pump out of service, which is a 3% less than the 567 gpm required for 945 connections.
4. During an investigation on October 27, 2008, TCEQ staff documented that the City did not initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, at the time of the investigation, it was documented that debris, discarded containers, fencing materials and pieces of plastic piping were noted within the fenced area of the elevated storage tank.
5. During an investigation on October 27, 2008, TCEQ staff documented that the City did not provide containment facilities for a single container or for multiple interconnected containers large enough to hold the maximum amount of chemical that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less. Specifically, at the time of the investigation, it was documented that the 250 gallon liquid ammonia container had a secondary containment capacity of only 75 gallons.
6. During an investigation on October 27, 2008, TCEQ staff documented that the City did not maintain customer service inspection certificates prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.
7. The City received notice of the violations on December 13, 2008 .

## **II. CONCLUSIONS OF LAW**

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the City failed to provide treatment facility capacity that is not less than the anticipated maximum daily demand of the water system, in violation of 30 TEX. ADMIN. CODE § 290.45(a)(6), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1986-PWS-E, Ordering Provision No. 2.a.i.

3. As evidenced by Findings of Fact No. 3, the City failed to provide a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(A), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1986-PWS-E, Ordering Provision No. 2.a.iii.
4. As evidenced by Findings of Fact No. 4, the City failed to initiate maintenance housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m).
5. As evidenced by Findings of Fact No. 5, the City failed to provide containment facilities for a single container or for multiple interconnected containers large enough to hold the maximum amount of chemical that can be stored with a minimum freeboard of six vertical inches or to hold 110% of the total volume of the container(s), whichever is less, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)(I).
6. As evidenced by Findings of Fact No. 6, the City failed to maintain customer service inspection certificates prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(j).
7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of Two Thousand Five Hundred Eleven Dollars (\$2,511) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The City has paid the Two Thousand Five Hundred Eleven Dollar (\$2,511) administrative penalty.

### III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Two Thousand Five Hundred Eleven Dollars (\$2,511) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of La Joya, Docket No. 2009-0030-PWS-E" to:

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

2. The City shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the water system's facilities and equipment, including but not limited to, removing the debris and cleaning the grounds around the water system's elevated storage tank, as required by 30 TEX. ADMIN. CODE § 290.46.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance as described below in Ordering Provision No. 2.f, that demonstrates compliance with Ordering Provision No. 2.a.
- c. Within 60 days after the effective date of this Agreed Order:
  - i. Ensure that customer service inspection certificates are completed and properly maintained on file prior to providing continuous water service to new construction, or any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazard exists, or after any material improvement, correction, or addition to the private water distribution facilities, as required by 30 TEX. ADMIN. CODE § 290.46; and
  - ii. Install a containment facility for the 250 gallon liquid ammonia tank large enough to hold the maximum amount of chemical that can be stored with minimum freeboard of six vertical inches or to hold 110% of the total volume of the ammonia tank, as required by 30 TEX. ADMIN. CODE § 290.42.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 180 days after the effective date of this Agreed Order:
  - i. Provide treatment facility capacity sufficient to meet the anticipated maximum daily demand of the Facility, as required by 30 TEX. ADMIN. CODE § 290.45; and
  - ii. Provide a raw water pump capacity of 0.6 gpm per connection with the largest pump out of service, as required by 30 TEX. ADMIN. CODE § 290.45.
- f. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including

photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247

3. 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.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 6/5/2009

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 4/13/09

ISIDRO VENECIA JR  
Name (Printed or typed)  
Authorized Representative of  
City of La Joya

Water Plant Director  
Title

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

