

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0284-PWS-E **TCEQ ID:** RN101215978 **CASE NO.:** 37206

**RESPONDENT NAME:** City of Del Rio

<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> Del Rio Utilities Commission, 264 San Felipe Springs Road, Del Rio, Val Verde County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 13, 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> Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Efrain V. Valdez, Mayor, City of Del Rio, 109 West Broadway Street, Del Rio, Texas 78840  <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 checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 20 and February 24, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 9, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation and a record review.</p> <p><b>WATER</b></p> <p>1) Failure to continuously monitor the quality of the water produced by each membrane unit and record the monitoring results at least once every five minutes [30 TEX. ADMIN. CODE § 290.111(f)(2)(C) and 290.111(h)(2)].</p> <p>2) Failure to submit the Membrane Monthly Operating Report ("MMOR") by the tenth day of the month following the end of the reporting period from June 2008 to January 2009 [30 TEX. ADMIN. CODE § 290.111(h)(7) and 290.111(h)(11)].</p> <p>3) Failure to pay all general permit storm water fees (Financial Administration Account Nos. 20003966 and 20024967) for fiscal year 2009 [30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$2,992</p> <p><b>Total Deferred:</b> \$598  <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> \$2,394</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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>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, submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account Nos. 20003966 and 20024967;</p> <p>b. Within 60 days after the effective date of this Agreed Order, begin monitoring the quality of the water produced by each membrane unit and record the monitoring results at least once every five minutes;</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and b;</p> <p>d. Within 120 days after the effective date of this Agreed Order, begin submitting MMORs to the Commission no later than the tenth day of the month following the reporting period; and</p> <p>e. Within 135 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 d.</p>

Additional ID No(s): PWS 2330001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	16-Feb-2009	Screening	24-Feb-2009	EPA Due	
	PCW	24-Feb-2009				

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

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37206	No. of Violations	3
Docket No.	2009-0284-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	33.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$742
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Notes: The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action, four dissimilar prior NOV's, and one agreed final enforcement order containing a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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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>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$488  
 Approx. Cost of Compliance \$5,200  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,992
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$2,992
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,992
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$598
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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>	\$2,394
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Screening Date 24-Feb-2009

Docket No. 2009-0284-PWS-E

PCW

Respondent City of Del Rio

Policy Revision 2 (September 2002)

Case ID No. 37206

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101215978

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

**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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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) 33%

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

No

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 one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action, four dissimilar prior NOV's, and one agreed final enforcement order containing a denial of liability.

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

<p><b>Screening Date</b> 24-Feb-2009</p> <p><b>Respondent</b> City of Del Rio</p> <p><b>Case ID No.</b> 37206</p> <p><b>Reg. Ent. Reference No.</b> RN101215978</p> <p><b>Media [Statute]</b> Public Water Supply</p> <p><b>Enf. Coordinator</b> Epifanio Villarreal</p> <p><b>Violation Number</b> <input type="text" value="1"/></p> <p><b>Rule Cite(s)</b></p> <p><b>Violation Description</b></p>	<p><b>Docket No.</b> 2009-0284-PWS-E</p> <p style="text-align: right;"><b>PCW</b> <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></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;">OR</td> <td colspan="3" style="text-align: center;">Harm</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 style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;">Percent <input type="text" value="25%"/></td> </tr> </table>		OR	Harm				Release	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
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<p><input type="text" value="\$250"/></p>																			
<p><b>Violation Events</b></p> <p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="36"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="7" style="width:10%; text-align: center; vertical-align: middle;">mark only one with an x</td> <td style="width:15%; text-align: center;">daily</td> <td style="width:15%; text-align: center;"><input type="text"/></td> <td rowspan="7" style="width:10%;"></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;"><input type="text"/></td> </tr> </table> <p style="text-align: right;"><b>Violation Base Penalty</b> <input type="text" value="\$250"/></p> <p style="border: 1px solid black; padding: 5px; margin-top: 10px;">One quarterly event is recommended from the date of the investigation, January 20, 2009 to the date of screening, February 24, 2009.</p>		mark only one with an x	daily	<input type="text"/>		weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>		
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	Ordinary	<input type="text"/>	<input type="text"/>																
N/A	<input checked="" type="checkbox"/>	(mark with x)																	
<p><b>Economic Benefit (EB) for this violation</b> <input type="text" value="\$273"/> <b>Statutory Limit Test</b></p> <p><b>Estimated EB Amount</b> <input type="text" value="\$273"/> <b>Violation Final Penalty Total</b> <input type="text" value="\$333"/></p> <p style="text-align: right;"><b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$333"/></p>																			

## Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 37206  
**Reg. Ent. Reference No.** RN101215978  
**Media** Public Water Supply  
**Violation No.** 1

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

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$5,000	20-Jan-2009	1-Nov-2009	0.78	\$13	\$260	\$273
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 on-line instrumentation, 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)**

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$273

<p><b>Screening Date</b> 24-Feb-2009</p> <p><b>Respondent</b> City of Del Rio</p> <p><b>Case ID No.</b> 37206</p> <p><b>Reg. Ent. Reference No.</b> RN101215978</p> <p><b>Media [Statute]</b> Public Water Supply</p> <p><b>Enf. Coordinator</b> Epifanio Villarreal</p> <p><b>Violation Number</b> <input type="text" value="2"/></p> <p><b>Rule Cite(s)</b> <input type="text" value="30 Tex. Admin. Code § 290.111(h)(7) and 290.111(h)(11)"/></p> <p><b>Violation Description</b> <input 2008="" 2009."="" by="" day="" end="" following="" from="" january="" june="" mmor")="" month="" of="" period="" reporting="" tenth="" the="" to="" type="text" value="Failed to submit the Membrane Monthly Operating Report ("/></p>	<p><b>Docket No.</b> 2009-0284-PWS-E</p> <p style="text-align: right;"><b>PCW</b></p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision October 30, 2008</p>																								
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	Major	Moderate	Minor																						
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	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>																					
<input type="text" value="\$250"/>																									
<b>Violation Events</b>																									
<p>Number of Violation Events <input type="text" value="8"/></p> <p style="margin-left: 150px;"><input type="text" value="211"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="7" style="font-size: small; vertical-align: middle;">mark only one with an x</td> <td>daily</td> <td><input type="text"/></td> </tr> <tr> <td>weekly</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td style="text-align: center;">x</td> </tr> <tr> <td>quarterly</td> <td><input type="text"/></td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td><input type="text"/></td> </tr> </table> <p style="text-align: right;"><b>Violation Base Penalty</b> <input type="text" value="\$2,000"/></p> <p style="border: 1px solid black; padding: 5px; margin-top: 10px;">Eight monthly events are recommended based on each month where no reports were submitted.</p>	mark only one with an x	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>										
mark only one with an x		daily	<input type="text"/>																						
		weekly	<input type="text"/>																						
		monthly	x																						
		quarterly	<input type="text"/>																						
		semiannual	<input type="text"/>																						
		annual	<input type="text"/>																						
	single event	<input type="text"/>																							
<b>Good Faith Efforts to Comply</b> <input type="text" value="0.0%"/> Reduction <input type="text" value="\$0"/>																									
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDP RP/Settlement Offer</td> </tr> <tr> <td><b>Extraordinary</b></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td><b>Ordinary</b></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td><b>N/A</b></td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p><b>Notes</b> <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/></p>		Before NOV	NOV to EDP RP/Settlement Offer	<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>	<b>Ordinary</b>	<input type="text"/>	<input type="text"/>	<b>N/A</b>	x	(mark with x)	<b>Violation Subtotal</b> <input type="text" value="\$2,000"/>												
	Before NOV	NOV to EDP RP/Settlement Offer																							
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>																							
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>																							
<b>N/A</b>	x	(mark with x)																							
<b>Economic Benefit (EB) for this violation</b>																									
<b>Estimated EB Amount</b> <input type="text" value="\$215"/>	<b>Statutory Limit Test</b>																								
	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,660"/>																								
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,660"/>																									

## Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 37206  
**Reg. Ent. Reference No.** RN101215978  
**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
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]	\$200	10-Jun-2008	10-Jan-2009	1.50	\$15	\$200	\$215
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount for the months in which no monitoring and reporting have occurred.

Approx. Cost of Compliance \$200

TOTAL \$215

<b>Screening Date</b> 24-Feb-2009	<b>Docket No.</b> 2009-0284-PWS-E	<b>PCW</b>	
<b>Respondent</b> City of Del Rio		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37206		<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101215978			
<b>Media [Statute]</b> Public Water Supply			
<b>Enf. Coordinator</b> Epifanio Villarreal			
<b>Violation Number</b> <input type="text" value="3"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 205.6 and Tex. Water Code § 5.702"/>		
<b>Violation Description</b>	<input type="text" value="Failed to pay all general permit stormwater fees (Financial Administration Account Nos. 20003966 and 20024967) for fiscal year 2009."/>		
	<b>Base Penalty</b>	<input type="text" value="\$1,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	Release	Harm	
		Major    Moderate    Minor	
	Actual	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
	Potential	<input type="text"/>	
<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>	<input type="text"/>		
	<b>Adjustment</b>	<input type="text" value="\$1,000"/>	
		<input type="text" value="\$0"/>	
<b>Violation Events</b>			
	<b>Number of Violation Events</b> <input type="text"/>	<b>Number of violation days</b> <input type="text"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$0"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
<input type="text" value="All penalties and interest will be determined by the Financial Administration Division at the next billing cycle."/>			
<b>Good Faith Efforts to Comply</b>			<b>0.0% Reduction</b> <input type="text" value="\$0"/>
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	(mark with x)		
<b>Notes</b>	<input type="text"/>		
	<b>Violation Subtotal</b>	<input type="text" value="\$0"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$0"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$0"/>

## Economic Benefit Worksheet

**Respondent** City of Del Rio  
**Case ID No.** 37206  
**Reg. Ent. Reference No.** RN101215978  
**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)				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

N/A

**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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600756290	City of Del Rio	Classification: AVERAGE	Rating: 1.40
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, VAL VERDE COUNTY, TX			
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	February 24, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 24, 2004 to February 24, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Epi Villarreal	Phone:	361-825-3425	

### 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. Rating Date: 9/1/2008 Repeat Violator: NO   |     |

### 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  | 05/19/2004 | (270387) |
| 2  | 07/09/2004 | (280591) |
| 3  | 01/24/2005 | (347635) |
| 4  | 09/23/2005 | (418738) |
| 5  | 02/23/2006 | (453865) |
| 6  | 03/07/2006 | (458262) |
| 7  | 08/30/2006 | (510820) |
| 8  | 08/30/2006 | (510873) |
| 9  | 02/27/2007 | (541797) |
| 10 | 05/16/2008 | (654197) |

11 08/05/2008 (684622)

12 02/09/2009 (710195)

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

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).

Date: 08/05/2008 (684622)

Self Report? NO

Classification: Minor

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

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

Self Report? NO

Classification: Minor

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

Description: Failure to post a legible sign at each production, treatment, and storage facility.

Self Report? NO

Classification: Moderate

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

Description: Failure to flush dead-end mains at monthly intervals.

Self Report? NO

Classification: Moderate

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

30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: Failure to report the five-minute water quality data from each membrane unit.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(h)(7)

Description: Failure to submit the Membrane Monthly Operating Report (MMOR).

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. 2009-0284-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 City of Del Rio ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the City before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 264 San Felipe Springs Road in Del Rio, Val Verde County, Texas (the "Facility") that has approximately 14,254 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 February 14, 2009.
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 Thousand Nine Hundred Ninety-Two Dollars (\$2,992) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Three Hundred Ninety-Four Dollars (\$2,394) of the administrative penalty and Five Hundred Ninety-Eight Dollars (\$598) 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 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.
9. 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.
10. 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:

1. Failed to continuously monitor the quality of the water produced by each membrane unit and record the monitoring results at least once every five minutes, in violation of 30 TEX. ADMIN. CODE § 290.111(f)(2)(C) and 290.111(h)(2), as documented during an investigation conducted on January 20, 2009.
2. Failed to submit the Membrane Monthly Operating Report ("MMOR") by the tenth day of the month following the end of the reporting period from June 2008 to January 2009, in violation of 30 TEX. ADMIN. CODE § 290.111(h)(7) and 290.111(h)(11), as documented during an investigation conducted on January 20, 2009.
3. Failed to pay all general permit storm water fees (Financial Administration Account Nos. 20003966 and 20024967) for fiscal year 2009, in violation of 30 TEX. ADMIN. CODE § 205.6 and TEX. WATER CODE § 5.702, as documented during an investigation conducted on February 24, 2009.

## 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 Del Rio, Docket No. 2009-0284-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. It is further ordered that the City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account Nos. 20003966 and 20024967. The payment shall be sent with the notation "City of Del Rio, FA Account Nos. 20003966 and 20024967" to:

Financial Administration Division, Revenues Section  
Attention Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087
  - b. Within 60 days after the effective date of this Agreed Order, begin monitoring the quality of the water produced by each membrane unit and record the monitoring results at least once every five minutes, in accordance with 30 TEX. ADMIN. CODE § 290.111;
  - c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.e and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a and 2.b;
  - d. Within 120 days after the effective date of this Agreed Order, begin submitting MMORs to the Commission no later than the tenth day of the month following the reporting period.

The MMORs shall be sent to:

Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

- e. Within 135 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 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Water Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3887

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. 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.

6. 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.
  
7. 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

*Jade Sartin*  
For the Executive Director

6/18/2009  
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.

*Efrain V. Valdez*  
Signature

5-13-09  
Date

Efrain V. Valdez  
Name (Printed or typed)  
Authorized Representative of  
City of Del Rio

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.