

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0333-PWS-E **TCEQ ID:** RN101387710 **CASE NO.:** 37265

RESPONDENT NAME: City of Eagle Pass Water Works System

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: City of Eagle Pass SWTP, 859 Jefferson Street, Eagle Pass, Maverick County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: 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 Respondent: Mr. Jose De Luna, Chairman, City of Eagle Pass Water Works System, P.O. Box 808, Eagle Pass, Texas 78853 Mr. Roberto Gonzalez, General Manager, City of Eagle Pass Water Works System, P.O. Box 808, Eagle Pass, Texas 78853 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 3, 11, and 12, 2009</p> <p>Date of NOV/NOE Relating to this Case: February 22, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide increased pressure by means of booster pumps taking suction from the storage tanks or obtain an exception by acquiring plan approval by the Executive Director for booster pumps taking suction from the distribution lines [30 TEX. ADMIN. CODE § 290.44(d)(2)].</p> <p>2) Failure to use an approved chemical or media for the disinfection of potable water that conforms to the American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") standards [30 TEX. ADMIN. CODE § 290.42(j)].</p> <p>3) Failure to continuously record the disinfectant residual of the water entering the distribution system [30 TEX. ADMIN. CODE § 290.110(c)(1)(A)].</p> <p>4) Failure to submit properly completed Surface Water Monthly Operating Reports ("SWMORs") to the Commission [30 TEX. ADMIN. CODE § 290.111(h)(2)].</p> <p>5) Failure to submit the Membrane Monthly Operating Report ("MMOR") by the tenth day of the month following the end of the reporting period [30 TEX. ADMIN. CODE § 290.111(h)(7) and 290.111(h)(11)].</p> <p>6) Failure to notify the Executive Director in writing as to the completion of the Ultra</p>	<p>Total Assessed: \$6,466</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$6,466</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin using treatment chemicals or media that conform to ANSI/NSF standards; and</p> <p>ii. Begin to continuously record the disinfection residual of the water entering the distribution system utilizing the Facility's continuous monitoring equipment.</p> <p>b. Within 45 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 Provision a;</p> <p>c. Within 90 days after the effective date of this Agreed Order, provide pH and temperature monitoring devices for the chemical enhanced backwash system according to the plans and specifications approved on August 24, 2004;</p> <p>d. Within 105 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 Provision c;</p> <p>e. Within 120 days after the effective date of this Agreed Order, begin submitting completed SWMORs and MMORs to the Commission no later than the tenth day of the month following the end of the reporting period;</p> <p>f. Within 135 days after the effective of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e;</p>

<p>Filtration Membrane Plant and attest to the fact that the completed work is substantially in accordance with the plans on file with the Commission [30 TEX. ADMIN. CODE § 290.39(h)(3)].</p>		<p>g. Within 365 days after the effective date of this Agreed Order, provide booster pumps to take suction from the storage tank; and</p> <p>h. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision g.</p>
---	--	--

Additional ID No(s): 1620001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	3-Mar-2009			
	PCW	3-Sep-2009	Screening	9-Mar-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Eagle Pass Water Works System
Reg. Ent. Ref. No.	RN101387710
Facility/Site Region	16-Laredo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37265	No. of Violations	6
Docket No.	2009-0333-PWS-E	Order Type	Findings
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

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$4,720
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	37.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,746
---------------------------	-------------------	--------------------------------	---------

Notes: The penalty enhancement is due to three prior Notices of Violation ("NOV"s) for violations that are the same as or similar to the violations in the current enforcement action, one prior dissimilar NOV, and one agreed final enforcement order containing a denial of liability.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$12,435
Approx. Cost of Compliance	\$104,798

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$6,466
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$6,466

STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$6,466
-----------------------------------	-------------------------------	---------

DEFERRAL	0.0% Reduction	<i>Adjustment</i>	\$0
-----------------	----------------	-------------------	-----

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	\$6,466
------------------------	---------

Screening Date 9-Mar-2009	Docket No. 2009-0333-PWS-E	PCW
Respondent City of Eagle Pass Water Works System		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37265		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN101387710		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	3	15%
	Other written NOVs	1	2%
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) 37%

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

N/A	Adjustment Percentage (Subtotal 3) 0%
-----	--

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer	Adjustment Percentage (Subtotal 7) 0%
-------------------	--

>> **Compliance History Summary**

Compliance History Notes	The penalty enhancement is due to three prior Notices of Violation ("NOV"s) for violations that are the same as or similar to the violations in the current enforcement action, one prior dissimilar NOV, and one agreed final enforcement order containing a denial of liability.
---------------------------------	--

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 9-Mar-2009	Docket No. 2009-0333-PWS-E	PCW	
Respondent City of Eagle Pass Water Works System		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37265		<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN101387710			
Media [Statute] Public Water Supply			
Enf. Coordinator Epifanio Villarreal			
Violation Number	1		
Rule Cite(s)	30 Tex. Admin. Code § 290.44(d)(2)		
Violation Description	Failed to provide increased pressure by means of booster pumps taking suction from the storage tanks or obtain an exception by acquiring plan approval by the Executive Director for booster pumps taking suction from the distribution lines. Specifically, at the time of the investigation, the College Hills in-line booster pump was taking suction from the distribution line.		
	Base Penalty	\$1,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release	Actual	Potential	Percent
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	50%
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent
			0%
Matrix Notes	Failure to operate the Facility with adequate storage prior to the point of suction may result in backflow problems and low pressure thereby exposing customers of the Facility to a significant amount of contaminants that exceed levels protective of human health.		
	Adjustment	\$500	
			\$500
Violation Events			
	Number of Violation Events	2	Number of violation days
		34	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	Violation Base Penalty
	weekly	<input type="checkbox"/>	
	monthly	<input checked="" type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
Two monthly events are recommended from the first date of the investigation, February 3, 2009 to the date of screening, March 9, 2009.			\$1,000
Good Faith Efforts to Comply			\$0
	0.0% Reduction		
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal			\$1,000
Economic Benefit (EB) for this violation			Statutory Limit Test
	Estimated EB Amount	\$11,952	Violation Final Penalty Total
			\$1,370
This violation Final Assessed Penalty (adjusted for limits)			\$1,370

Economic Benefit Worksheet

Respondent: City of Eagle Pass Water Works System
Case ID No.: 37265
Reg. Ent. Reference No.: RN101387710
Media: Public Water Supply
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$103,012	3-Feb-2009	1-Oct-2010	1.66	\$569	\$11,383	\$11,952
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 cost includes the amount to provide an additional storage tank so that increased pressure can be obtained by means of booster pumps taking suction from storage tanks, calculated from the first 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

\$103,012

TOTAL

\$11,952

Screening Date 9-Mar-2009	Docket No. 2009-0333-PWS-E	PCW
Respondent City of Eagle Pass Water Works System		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 37265		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN101387710		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code § 290.42(j)	
Violation Description	Failed to use an approved chemical or media for the disinfection of potable water that conforms to the American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") standards. Specifically, the ferric chloride being used as a direct additive in the water supply is not an approved chemical.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="10%"/>

>> Programmatic Matrix

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

Matrix Notes
 Failure to use an approved disinfectant that meets ANSI/NSF standards could allow an insignificant amount of improperly disinfected water, which would not exceed levels protective of human health to be distributed for human consumption.

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply **Reduction**

		Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Eagle Pass Water Works System
Case ID No. 37265
Reg. Ent. Reference No. RN101387710
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	3-Feb-2009	1-Nov-2009	0.74	\$0	\$5	\$5
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 cost includes the amount to obtain ANSI/NSF certification for an approved direct additive, calculated from the first 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

\$100

TOTAL

\$5

Screening Date 9-Mar-2009 **Docket No.** 2009-0333-PWS-E **PCW**
Respondent City of Eagle Pass Water Works System *Policy Revision 2 (September 2002)*
Case ID No. 37265 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101387710
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal
Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 290.110(c)(1)(A)
Violation Description Failed to continuously record the disinfectant residual of the water entering the distribution system. Specifically, at the time of the investigation, it was noted that operators were using grab samples taken with the pocket colorimeter to report the disinfectant residual instead of utilizing the continuous monitoring equipment.
Base Penalty \$1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

>> **Programmatic Matrix**

	Major	Moderate	Minor	Percent
Falsification				0%

Matrix Notes
 Failure to record the disinfectant residual using the on-line chlorine residual monitor would result in less frequent monitoring of the water supply which could expose customers of the water supply to a significant amount of bacteriological contamination which would not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty \$250

One quarterly event is recommended from the first date of the investigation, February 3, 2009, to the date of screening, March 9, 2009.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Eagle Pass Water Works System
Case ID No. 37265
Reg. Ent. Reference No. RN101387710
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	3-Feb-2009	1-Nov-2009	0.74	\$0	\$5	\$5
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 cost includes the amount to utilize the continuous on-line chlorine monitor to record the disinfection residual in the water entering the distribution system, calculated from the first 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

\$100

TOTAL

\$5

Screening Date 9-Mar-2009

Docket No. 2009-0333-PWS-E

PCW

Respondent City of Eagle Pass Water Works System

Policy Revision 2 (September 2002)

Case ID No. 37265

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101387710

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.111(h)(2)

Violation Description Failed to submit properly completed Surface Water Monthly Operating Reports ("SWMORs") to the Commission. Specifically, at the time of the investigation, it was documented that the data for the individual filter effluent was incorrect and incomplete on the 12 SWMORs that were completed preceding the investigation date.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes At least 70% of the rule requirement is met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 12 Number of violation days 34

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

Violation Base Penalty \$120

Twelve single events are recommended for the reports reviewed 12 months prior to the investigation.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$120

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$132

Violation Final Penalty Total \$164

This violation Final Assessed Penalty (adjusted for limits) \$164

Economic Benefit Worksheet

Respondent: City of Eagle Pass Water Works System
Case ID No.: 37265
Reg. Ent. Reference No.: RN101387710
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				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]	\$120	10-Feb-2008	10-Feb-2009	1.92	\$12	\$120	\$132
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount for the months in which incorrect and incomplete monitoring and reporting have occurred (calculated at \$10 per report).

Approx. Cost of Compliance

\$120

TOTAL

\$132

Screening Date 9-Mar-2009	Docket No. 2009-0333-PWS-E	PCW		
Respondent City of Eagle Pass Water Works System		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37265		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101387710				
Media [Statute] Public Water Supply				
Enf. Coordinator Epifanio Villarreal				
Violation Number	5			
Rule Cite(s)	30 Tex. Admin. Code § 290.111(h)(7) and 290.111(h)(11)			
Violation Description	Failed to submit the Membrane Monthly Operating Report ("MMOR") by the tenth day of the month following the end of the reporting period. At the time of the investigation, there were no MMORs on file with the Commission for the 12 months preceding the investigation date.			
Base Penalty		\$1,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			
Percent				0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
Percent				25%
Matrix Notes	100% of the rule requirement was not met.			
Adjustment				\$750
				\$250
Violation Events				
Number of Violation Events		12	Number of violation days	
		34		
<small>mark only one with an x</small>	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
Violation Base Penalty				\$3,000
Twelve monthly events are recommended for the 12 months preceding the date of the investigation, February 12, 2009, for which no MMORs were submitted.				
Good Faith Efforts to Comply		0.0%	Reduction	\$0
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$3,000
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		\$263	Violation Final Penalty Total	\$4,110
This violation Final Assessed Penalty (adjusted for limits)				\$4,110

Economic Benefit Worksheet

Respondent: City of Eagle Pass Water Works System
Case ID No.: 37265
Reg. Ent. Reference No.: RN101387710
Media: Public Water Supply
Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

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

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]	\$240	10-Feb-2008	10-Feb-2009	1.92	\$23	\$240	\$263
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. The date required is 12 months preceding the investigation date of the month the first MMOR was due (calculated at \$20 per report). The final date is the date the MMOR was due during the month of the investigation.

Approx. Cost of Compliance

\$240

TOTAL

\$263

Screening Date 9-Mar-2009	Docket No. 2009-0333-PWS-E	PCW		
Respondent City of Eagle Pass Water Works System		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37265		<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN101387710				
Media [Statute] Public Water Supply				
Enf. Coordinator Epifanio Villarreal				
Violation Number <input type="text" value="6"/>				
Rule Cite(s)	30 Tex. Admin. Code § 290.39(h)(3)			
Violation Description	Failed to notify the Executive Director in writing as to the completion of the Ultra Filtration ("UF") Membrane Plant and attest to the fact that the completed work is substantially in accordance with the plans on file with the Commission. Specifically, at the time of the investigation, it was documented that the construction of the UF Membrane Plant was not completed in accordance with the plans approved by the Executive Director.			
	Base Penalty	<input type="text" value="\$1,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>	
Matrix Notes	100% of the rule requirement was not met.			
	Adjustment	<input type="text" value="\$750"/>		
				<input type="text" value="\$250"/>
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="34"/>	Number of violation days
mark only one with an x	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
		One single event is recommended.		
Good Faith Efforts to Comply		0.0% Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	<input type="text" value="\$250"/>		
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	<input type="text" value="\$78"/>	Violation Final Penalty Total	<input type="text" value="\$343"/>
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$343"/>		

Economic Benefit Worksheet

Respondent City of Eagle Pass Water Works System
Case ID No. 37265
Reg. Ent. Reference No. RN101387710
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment	\$1,226	3-Feb-2009	1-Jan-2010	0.91	\$4	\$74	\$78
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 cost includes the amount to install pH and temperature monitoring devices on the chemical enhanced backwash system and waste system at the UF Membrane Plant, calculated from the first 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

\$1,226

TOTAL

\$78

facility.

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	05/10/2004	(272051)
2	08/24/2005	(406640)
3	01/24/2006	(453004)
4	08/16/2006	(497724)
5	08/13/2007	(570831)
6	10/15/2007	(597966)
7	10/28/2007	(598024)
8	04/30/2008	(639219)
9	12/05/2008	(710053)
10	02/25/2009	(710270)

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

Date: 06/28/2004 (277790)

Self Report? NO

Classification: Moderate

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

Description: Failure to maintain a minimum pressure of 35 psi throughout the distribution system under normal operating conditions and a minimum pressure of 20 psi during emergencies.

Date: 08/29/2005 (406640)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)

Description: Failure to provide containment for all liquid chemical storage tanks.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failure to provide a flow measuring device to measure the flow rate through specific treatment processes.

Self Report? NO

Classification: Minor

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

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

Self Report? NO

Classification: Moderate

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

Description: Failure to maintain a minimum of 0.5 mg/l total chlorine residual in each finished water storage tank and throughout the distribution system at all times.

Self Report? NO

Classification: Moderate

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

Description: Failure to provide booster pumps which take suction from storage tanks or to obtain an exception to this requirement.

Date: 08/13/2007 (570831)

Self Report? NO

Classification: Minor

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

Description: Failure to submit additional documentation as required to determine compliance.

Self Report? NO

Classification: Moderate

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

Description: Failure to obtain a current exception for the College Hills inline booster pump station to take suction from a distribution line.

Self Report? NO

Classification: Minor

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

Description: Failure to provide ANSI/NSF certification for all chemicals used in the treatment of drinking water. All chemicals and any additional or replacement process media used in treatment of water supplied by public water systems must conform to American National Standards Institute/National Sanitation Foundation (ANSI/NSF) Standard 60 for direct additives and ANSI/NSF Standard 61 for indirect additives.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to provide maintenance to ensure the good working condition and general appearance of the system's facilities and equipment.
 Date: 04/30/2008 (639219)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(2)
 Description: Failure to obtain a current exception for the College Hills inline booster pump station to take suction from a distribution line.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
 Description: Failure to test all backflow prevention assemblies upon installation and annually by a recognized backflow prevention assembly tester.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan and have the plan approved by the executive director.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
 Description: Failure to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)
 Description: Failure to report the disinfectant residual entering the distribution as recorded by the continuous online monitor at the plant.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)
 Description: Failure to properly calibrate laboratory equipment used for compliance testing.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)
 Description: Failure to label every chemical bulk storage facility and day tank to identify the contents and a device that indicates the amount of chemical remaining in the facility or tank.

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 EAGLE PASS WATER
WORKS SYSTEM
RN101387710

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0333-PWS-E

I. JURISDICTION AND STIPULATIONS

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

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 859 Jefferson Street in Eagle Pass, Maverick County, Texas (the "Facility") that has approximately 16,928 service connections and serves at least 25 people per day for at least 60 days per year.
2. During an investigation conducted on February 3, 11, and 12, 2009, TCEQ staff documented that the Respondent did not provide increased pressure by means of booster pumps taking suction from the storage tanks or obtain an exception by acquiring plan approval by the Executive Director for booster pumps taking suction from the distribution lines. Specifically, at the time of the investigation, the College Hills in-line booster pump was taking suction from the distribution line.
3. During an investigation conducted on February 3, 11, and 12, 2009, TCEQ staff documented that the Respondent did not use an approved chemical or media for the disinfection of potable water that conforms to the American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") standards. Specifically, the ferric chloride being used as a direct additive in the water supply is not an approved chemical.
4. During an investigation conducted on February 3, 11, and 12, 2009, TCEQ staff documented that the Respondent did not continuously record the disinfectant residual of the water entering the distribution system. Specifically, at the time of the investigation, it was noted that operators were using grab samples taken with the pocket colorimeter to report the disinfectant residual instead of utilizing the continuous monitoring equipment.
5. During an investigation conducted on February 3, 11, and 12, 2009, TCEQ staff documented that the Respondent did not submit properly completed Surface Water Monthly Operating Reports ("SWMORs") to the Commission. Specifically, at the time of the investigation, it was noted that the data for the individual filter effluent was incorrect and incomplete on the 12 SWMORs that were completed preceding the investigation dates.
6. During an investigation conducted on February 3, 11, and 12, 2009, TCEQ staff documented that the Respondent did not submit the Membrane Monthly Operating Report ("MMOR") by the tenth day of the month following the end of the reporting period. At the time of the investigation, there were no MMORs on file with the Commission for the 12 months preceding the investigation date.
7. During an investigation conducted on February 3, 11, and 12, 2009, TCEQ staff documented that the Respondent did not notify the Executive Director in writing as to the completion of the Ultra Filtration ("UF") Membrane Plant and attest to the fact that the completed work is substantially in accordance with the plans on file with the Commission. Specifically, at the time of the investigation, it was documented that the construction of the UF Membrane Plant was not completed in accordance with the plans approved by the Executive Director.
8. The Respondent received notice of the violations on February 27, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide increased pressure by means of booster pumps taking suction from the storage tanks or obtain an exception by acquiring plan approval by the Executive Director for booster pumps taking suction from the distribution lines, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(2).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to use an approved chemical or media for the disinfection of potable water that conforms to the ANSI/NSF standards, in violation of 30 TEX. ADMIN. CODE § 290.42(j).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to continuously record the disinfectant residual of the water entering the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(1)(A).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to submit properly completed SWMORs to the Commission, in violation of 30 TEX. ADMIN. CODE § 290.111(h)(2).
6. As evidenced by Findings of Fact No. 6, the Respondent failed to submit the MMOR by the tenth day of the month following the end of the reporting period, in violation of 30 TEX. ADMIN. CODE § 290.111(h)(7) and 290.111(h)(11).
7. As evidenced by Findings of Fact No. 7, the Respondent failed to notify the Executive Director in writing as to the completion of the UF Membrane Plant and attest to the fact that the completed work is substantially in accordance with the plans on file with the Commission, in violation of 30 TEX. ADMIN. CODE § 290.39(h)(3).
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of Six Thousand Four Hundred Sixty-Six Dollars (\$6,466) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Six Thousand Four Hundred Sixty-Six Dollar (\$6,466) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Four Hundred Sixty-Six Dollars (\$6,466) as set forth in Section II, Paragraph 9 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Eagle Pass Water Works System, Docket No. 2009-0333-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin using treatment chemicals or media that conform to ANSI/NSF standards, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
 - ii. Begin to continuously record the disinfection residual of the water entering the distribution system utilizing the Facility's continuous monitoring equipment, in accordance with 30 TEX. ADMIN. CODE § 290.110.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.h. and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.
- c. Within 90 days after the effective date of this Agreed Order, provide pH and temperature monitoring devices for the chemical enhanced backwash system according to the plans and specifications approved on August 24, 2004, in accordance with 30 TEX. ADMIN. CODE § 290.39.
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.h. and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.
- e. Within 120 days after the effective date of this Agreed Order, begin submitting completed SWMORs and MMORs to the Commission no later than the tenth day of the month following the end of the reporting period.

The SWMORs and MMORs shall be sent to:

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

- f. Within 135 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.h, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.e.

- g. Within 365 days after the effective date of this Agreed Order, provide booster pumps to take suction from the storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.44.
- h. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.g. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

J. Du Bredin
For the Executive Director

6/18/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Eagle Pass Water Works System. I am authorized to agree to the attached Agreed Order on behalf of City of Eagle Pass Water Works System, 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 Eagle Pass Water Works System 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]
Signature

5-13-09
Date

Roberto Gonzalez
Name (Printed or typed)
Authorized Representative of
City of Eagle Pass Water Works System

General Manager
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.

