

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0494-PWS-E **TCEQ ID:** RN101180263 **CASE NO.:** 37427
RESPONDENT NAME: City of Bogata

ORDER TYPE:		
<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	
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 Bogata Public Water System, 128 North Main Street, Bogata, Red River 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 20, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Vincent Lum, Mayor, City of Bogata, P.O. Box 69, Bogata, Texas 75417 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 10, 2009</p> <p>Date of NOE Relating to this Case: March 18, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to compile and maintain a thorough plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(1)].</p> <p>2) Failure to enclose all potable water storage tanks within an intruder-resistant fence with lockable gates that are to be kept locked when the Facility is unattended [30 TEX. ADMIN. CODE § 290.43(e)].</p> <p>3) Failure to maintain pumps, motors, valves, and other mechanical devices in good working condition [30 TEX. ADMIN. CODE § 290.46(m)(6)].</p> <p>4) Failure to compile and maintain on file an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use [30 TEX. ADMIN. CODE § 290.121(a) and (b)].</p> <p>5) Failure to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$1,050</p> <p>Total Deferred: \$210 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$840</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</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, compile and maintain a thorough plant operations manual for operator review and reference;</p> <p>b) Within 45 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 No. 2.a.;</p> <p>c) Within 90 days after the effective date of this Agreed Order:</p> <p>i. Repair or replace the gate at the North Elevated Tower to render it intruder-resistant;</p> <p>ii. Ensure all pumps, motors, valves, and mechanical devices are maintain in good working order, including but not limited to: replacing the bolts on the service pump and replacing the housing for the 250 gallon per minute pressure pump; and</p> <p>iii. Compile and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use.</p> <p>d) Within 105 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 No. 2.c.;</p> <p>e) Within 365 days after the effective date of this Agreed Order:</p>

<p>6) Failure to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers); or test the well every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u)].</p>		<p>i. Provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection; and</p> <p>ii. Plug Well No. 1 with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers); or test the well every five years to prove it is in a non-deteriorated condition and provide the results to the Commission for approval.</p> <p>f) 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 No. 2.e.</p>
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Additional ID No(s): PWS ID No. 1940001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	23-Mar-2009	Screening	1-Apr-2009	EPA Due	
	PCW	1-Apr-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Bogata		
Reg. Ent. Ref. No.	RN101180263		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37427	No. of Violations	6
Docket No.	2009-0494-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodur
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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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.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$50
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Notes	Enhancement due to one Notice of Violation with same or similar violations as those in the current enforcement action.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$55,661	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$291,750	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,050
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$1,050
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,050
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DEFERRAL	20.0% Reduction	Adjustment	-\$210
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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.
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PAYABLE PENALTY	\$840
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Screening Date 1-Apr-2009	Docket No. 2009-0494-PWS-E	PCW
Respondent City of Bogata		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37427		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN101180263		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		

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>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **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

Enhancement due to one Notice of Violation with same or similar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 1-Apr-2009	Docket No. 2009-0494-PWS-E	PCW	
Respondent City of Bogata		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37427		<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN101180263			
Media [Statute] Public Water Supply			
Enf. Coordinator Andrea Linson-Mgbeoduru			
Violation Number	1		
Rule Cite(s)	30 Tex. Admin. Code § 290.42(l)		
Violation Description	Failed to compile and maintain a thorough plant operations manual for operator review and reference. Specifically, at the time of the investigation, the water operator stated that the Facility did not have a plant operations manual.		
	Base Penalty	\$1,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release			
Actual			
Potential			
		Percent	0%
>> Programmatic Matrix			
	Major	Moderate	Minor
Falsification			
	X		
		Percent	10%
Matrix Notes	100% of the rule requirement was not met.		
	Adjustment	\$900	
		\$100	
Violation Events			
	Number of Violation Events	1	Number of violation days
		50	
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	
		Violation Base Penalty	\$100
	One single event is recommended.		
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	\$100	
Economic Benefit (EB) for this violation			
Statutory Limit Test			
Estimated EB Amount	\$23	Violation Final Penalty Total	\$105
		This violation Final Assessed Penalty (adjusted for limits)	\$105

Economic Benefit Worksheet

Respondent City of Bogata
Case ID No. 37427
Reg. Ent. Reference No. RN101180263
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	7-Feb-2008	30-Nov-2009	1.81	\$23	n/a	\$23

Notes for DELAYED costs

The delayed costs include the amount necessary to develop and maintain a plant operations manual. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$250

TOTAL

\$23

Screening Date 1-Apr-2009	Docket No. 2009-0494-PWS-E	PCW																				
Respondent City of Bogata		<small>Policy Revision 2 (September 2002)</small>																				
Case ID No. 37427		<small>PCW Revision October 30, 2008</small>																				
Reg. Ent. Reference No. RN101180263																						
Media [Statute] Public Water Supply																						
Enf. Coordinator Andrea Linson-Mgbeoduru																						
Violation Number	2																					
Rule Cite(s)	30 Tex. Admin. Code § 290.43(e)																					
Violation Description	Failed to enclose all potable water storage tanks within an intruder-resistant fence with lockable gates that are to be kept locked when the Facility is unattended. Specifically, at the time of the investigation, it was documented that the gate at the North Elevated Tower had a gap between the two sides which made it unsecure when left unattended.																					
	Base Penalty	\$1,000																				
>> Environmental, Property and Human Health Matrix																						
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td>Release</td> <td>Major</td> <td>Moderate</td> <td>Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual					Potential		x			Percent <input type="text" value="10%"/>
	Harm																					
Release	Major	Moderate	Minor																			
Actual																						
Potential		x																				
>> Programmatic Matrix																						
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Falsification</th> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Falsification	Major	Moderate	Minor		Actual						Potential						Percent <input type="text" value="0%"/>		
	Falsification	Major	Moderate	Minor																		
Actual																						
Potential																						
Matrix Notes	Failure to properly secure the Facility's elevated storage tank could render the Facility vulnerable to vandalism from trespassers thereby exposing customers of the Facility to significant amounts of pollutants that would not exceed levels protective of human health.																					
	Adjustment	\$900																				
		\$100																				
Violation Events																						
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="50"/> Number of violation days																				
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty <input type="text" value="\$100"/>						
daily																						
weekly																						
monthly																						
quarterly	x																					
semiannual																						
annual																						
single event																						
	One quarterly event is recommended, calculated from the investigation date, February 10, 2009, to the screening date, April 1, 2009.																					
Good Faith Efforts to Comply	0.0% Reduction	\$0																				
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDRP/Settlement Offer</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDRP/Settlement Offer	Extraordinary			Ordinary			N/A	x	(mark with x)									
	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	\$100																				
Economic Benefit (EB) for this violation																						
	Estimated EB Amount <input type="text" value="\$69"/>	Violation Final Penalty Total <input type="text" value="\$105"/>																				
	Statutory Limit Test																					
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$105"/>																					

Economic Benefit Worksheet

Respondent City of Bogata
Case ID No. 37427
Reg. Ent. Reference No. RN101180263
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
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No commas or \$

Delayed Costs

Equipment	\$500	7-Feb-2008	31-Jan-2010	1.98	\$3	\$66	\$69
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 necessary to replace the gates on the fence at the North Elevated Tower to ensure they lock. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$500

TOTAL

\$69

Screening Date 1-Apr-2009	Docket No. 2009-0494-PWS-E	PCW		
Respondent City of Bogata		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37427		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101180263				
Media [Statute] Public Water Supply				
Enf. Coordinator Andrea Linson-Mgbeoduru				
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 290.46(m)(6)			
Violation Description	Failed to maintain pumps, motors, valves, and other mechanical devices in good working condition. Specifically, at the time of the investigation, it was documented that the bolts securing the service pumps and the housing on one of the 250 gallon per minute pressure pumps showed severe signs of corrosion.			
	Base Penalty	\$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 checked="" type="checkbox"/>
				Percent <input type="text" value="5%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	Failure to properly maintain the Facility's equipment could expose customers of the Facility to an insignificant amount of contaminants which would not exceed levels that are protective of human health.			
	Adjustment	\$950		
		\$50		
Violation Events				
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="50"/>	Number of violation days
<i>mark only one with an x</i>	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"/>		
		Violation Base Penalty <input type="text" value="\$100"/>		
	Two single events are recommended, based on one event for the service pump and one for the pressure pump.			
Good Faith Efforts to Comply				
		0.0%	Reduction	<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
	Extraordinary	<input type="text"/>		
	Ordinary	<input type="text"/>		
	N/A	<input checked="" type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal <input type="text" value="\$100"/>		
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$50"/>		
		Violation Final Penalty Total	<input type="text" value="\$105"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$105"/>		

Economic Benefit Worksheet

Respondent City of Bogata
Case ID No. 37427
Reg. Ent. Reference No. RN101180263
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
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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)	\$500	7-Feb-2008	31-Jan-2010	1.98	\$50	n/a	\$50

Notes for DELAYED costs

The delayed cost includes the amount necessary to replace the bolts securing the service pumps and replace the housing on the 250 gallon per minute pressure pump. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$500

TOTAL

\$50

Screening Date 1-Apr-2009 **Docket No.** 2009-0494-PWS-E **PCW**
Respondent City of Bogata *Policy Revision 2 (September 2002)*
Case ID No. 37427 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101180263
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru
Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)
Violation Description Failed to compile, maintain on file at the Facility, and make available to the Commission upon request an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use. Specifically, at the time of the investigation, the water operator stated that the Facility did not have a monitoring plan.
Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events: 1 50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

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 \$100

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$69 Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

Economic Benefit Worksheet

Respondent City of Bogata
Case ID No. 37427
Reg. Ent. Reference No. RN101180263
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)	\$500	7-Feb-2008	31-Jan-2010	1.98	\$3	\$66	\$69
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 includes the amount to develop and implement a chemical and microbiological monitoring plan. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$500

TOTAL

\$69

Screening Date 1-Apr-2009	Docket No. 2009-0494-PWS-E	PCW
Respondent City of Bogata	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37427	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN101180263		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		
Violation Number	5	
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)	
Violation Description	Failed to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. Specifically, at the time of the investigation, it was documented that the Facility has 580 service connections which requires an elevated storage capacity of 58,000 gallons. However, the Facility currently provides 29,735 gallons, indicating a 49% deficiency.	
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"/>	x	<input type="checkbox"/>	Percent <input style="width:50px;" type="text" value="10%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input style="width:50px;" type="text" value="0%"/>

Matrix Notes
 Failure to provide adequate elevated storage tank capacity may result in low pressure throughout the distribution system potentially exposing customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment

\$100

Violation Events

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

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

Violation Base Penalty

One quarterly event is recommended, calculated from the investigation date, February 10, 2009, to the screening date, April 1, 2009.

Good Faith Efforts to Comply Reduction

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

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 Bogata
Case ID No. 37427
Reg. Ent. Reference No. RN101180263
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
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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)				0.00	\$0	\$0	\$0
Engineering/construction	\$285,000	7-Feb-2008	31-Oct-2010	2.73	\$2,595	\$51,899	\$54,494
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 necessary to provide an elevated storage tank capacity of 100 gallons per connection or total pressure tank capacity of 20 gallons per connection. The date required is the date of the investigation initially documenting the violation. The final date is 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	\$285,000	TOTAL	\$54,494
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Screening Date 1-Apr-2009	Docket No. 2009-0494-PWS-E	PCW			
Respondent City of Bogata	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 37427	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN101180263					
Media [Statute] Public Water Supply					
Enf. Coordinator Andrea Linson-Mgbeoduru					
Violation Number	6				
Rule Cite(s)	30 Tex. Admin. Code § 290.46(u)				
Violation Description	Failed to plug an abandoned public water supply well with cement according to 16 Tex. Admin. Code Chapter 76 (relating to Water Well Drillers and Water Well Pump Installers); or test the well every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition. Specifically, at the time of the investigation, it was documented that Well No. 1 was not plugged, and had not been tested within the last five years to ensure that it was in a non-deteriorated condition.				
	Base Penalty	\$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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="25%"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	
Matrix Notes	Failure to plug the abandoned well could expose human health or the environment to significant amounts of pollutants which would exceed levels that are protective of human health or the environment.				
	Adjustment	<input type="text" value="\$750"/>			
\$250					
Violation Events					
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="50"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input checked="" type="checkbox"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
					Violation Base Penalty <input type="text" value="\$500"/>
	Two monthly events are recommended, calculated from the investigation date, February 10, 2009, to the screening date, April 1, 2009.				
Good Faith Efforts to Comply					
	<input type="text" value="0.0%"/>	Reduction			<input type="text" value="\$0"/>
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>				
Ordinary	<input type="text"/>				
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal <input type="text" value="\$500"/>					
Economic Benefit (EB) for this violation					
Statutory Limit Test					
	Estimated EB Amount	<input type="text" value="\$956"/>	Violation Final Penalty Total	<input type="text" value="\$525"/>	
				This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$525"/>	

Economic Benefit Worksheet

Respondent: City of Bogata
Case ID No.: 37427
Reg. Ent. Reference No.: RN101180263
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
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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	\$5,000	7-Feb-2008	31-Oct-2010	2.73	\$46	\$911	\$956
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 necessary to plug or test the abandoned well. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$956

Compliance History Report

Customer/Respondent/Owner-Operator: CN600627939 City of Bogata Classification: AVERAGE Rating: 0.80
Regulated Entity: RN101180263 CITY OF BOGATA Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1940001
WATER LICENSING LICENSE 1940001
Location: 128 N MAIN ST, BOGATA, RED RIVER COUNTY, TX
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: April 01, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 01, 2004 to April 01, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
- 6.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 01/12/2005 (345627)
2 03/03/2008 (617970)
3 03/16/2009 (705855)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 03/03/2008 (617970) CN600627939
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)
Description: Failure to provide a full-face self-contained breathing apparatus
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to have a plant operations manual.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to maintain storage tanks in according with AWWA standards
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence in order to protect the elevated storage tank.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failure to inspect each storage tank on at least an annual basis.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)
 Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's pumps, motors, and valves.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
 Description: Failure to calibrate a well meter.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)
 Description: Failure to install wiring in conduit.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failure to develop and maintain an up to date system monitoring plan.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
 Description: Failure to provide the minimum elevated storage tank/pressure tank capacity
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
 Description: Failure to plug an abandoned well.

- 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 BOGATA
RN101180263

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-0494-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 Bogata ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply at 128 North Main Street in Bogata, Red River County, Texas (the "Facility") that has approximately 580 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about March 23, 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 One Thousand Fifty Dollars (\$1,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Eight Hundred Forty Dollars (\$840) of the administrative penalty and Two Hundred Ten Dollars (\$210) 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 compile and maintain a thorough plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l), as documented during an investigation conducted on February 10, 2009.
2. Failed to enclose all potable water storage tanks within an intruder-resistant fence with lockable gates that are to be kept locked when the Facility is unattended, in violation of 30 TEX. ADMIN. CODE § 290.43(e), as documented during an investigation conducted on February 10, 2009.
3. Failed to maintain pumps, motors, valves, and other mechanical devices in good working condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(6), as documented during an investigation conducted on February 10, 2009.
4. Failed to compile and maintain on file an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b), as documented during an investigation conducted on February 10, 2009.
5. Failed to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on February 10, 2009.

6. Failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers); or test the well every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u), as documented during an investigation conducted on February 10, 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 Bogata, Docket No. 2009-0494-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, compile and maintain a thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 90 days after the effective date of this Agreed Order:
 - i. Repair or replace the gate at the North Elevated Tower to render it intruder-resistant, in accordance with 30 TEX. ADMIN. CODE § 290.43;
 - ii. Ensure all pumps, motors, valves, and mechanical devices are maintained in good working order, including but not limited to: replacing the bolts on the service pump and replacing the housing for the 250 gallon per minute pressure pump, in accordance with 30 TEX. ADMIN. CODE § 290.46; and

- iii. Compile and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use, in accordance with 30 TEX. ADMIN. CODE § 290.121.
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 365 days after the effective date of this Agreed Order:
 - i. Provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Plug Well No. 1 with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers); or test the well every five years to prove it is in a non-deteriorated condition and provide the results to the Commission for approval, in violation of 30 TEX. ADMIN. CODE § 290.46.
- f. 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 No. 2.e The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Lubbock, Texas 79414-3421

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



For the Executive Director

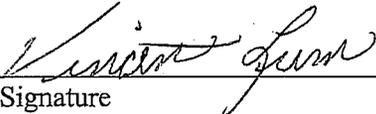
Date 6/23/2009

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:

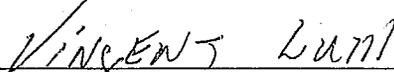
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement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



Signature

Date 5/14/09



Name (Printed or typed)
Authorized Representative of
City of Bogata

Title MAYOR

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.