

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0915-PWS-E TCEQ ID: RN101219665 CASE NO.: 35996**  
**RESPONDENT NAME: CITY OF ELSA**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

**SITE WHERE VIOLATION(S) OCCURRED:** 500 West Fifth Street, Elsa, Hidalgo County

**TYPE OF OPERATION:** public water supply system

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired August 24, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  
**TCEQ Enforcement Coordinator:** Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717  
**TCEQ Regional Contact:** Mr. Jaime Garza, Harlingen Regional Office, MC R-15, (956) 403-6030  
**Respondent:** The Honorable Senovio Castillo, Mayor, City of Elsa, PO Box 427, Elsa, Texas 78543  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 11, 2008</p> <p><b>Date of NOE Relating to this Case:</b> May 23, 2008</p> <p><b>Background Facts:</b> The EDP RP was filed December 17, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and a signed Agreed Order was received on June 17, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent is not yet in compliance</p> <p><b>PWS:</b> Failed to submit surface water monthly operating reports by the tenth day of the month following the end of the reporting period [30 TEX. ADMIN. CODE §§ 290.110(e)(2) and (e)(5) and 290.111(h)(3) and (h)(11)].</p>	<p><b>Total Assessed:</b> \$10,782</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$10,782</p> <p>The Respondent paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> At least three prior NOVs for the same violation in the past five years.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days:                     <ol style="list-style-type: none"> <li>a. Submit properly completed monthly water works operations reports by the tenth day of the month following the end of the reporting period, and</li> <li>b. Submit to the Commission a copy of the public notice sent to the Respondent's customers with information about the surface water monthly operating report violations.</li> </ol> </li> <li>2. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 1.a. and 1.b.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	27-May-2008	<b>Screening</b>	4-Jun-2008	<b>EPA Due</b>	17-Feb-2009
	<b>PCW</b>	2-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Elsa		
<b>Reg. Ent. Ref. No.</b>	RN101219665		
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35996	<b>No. of Violations</b>	1
<b>Docket No.</b>	2008-0915-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Tel Croston
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

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

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

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

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

**Notes**

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

**Notes**

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

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

Total EB Amounts    
 Approx. Cost of Compliance    
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

**Screening Date** 4-Jun-2008

**Docket No.** 2008-0915-PWS-E

**PCW**

**Respondent** City of Elsa

Policy Revision 2 (September 2002)

**Case ID No.** 35996

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN101219665

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Tel Croston

### 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 (number of NOVs meeting criteria)	19	95%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 127%

>> **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**

Penalty enhancement due to one previous Agreed Order, 19 Notices of Violations (NOV) for the same or similar violations and six dissimilar violations in the past five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 127%

<b>Screening Date</b> 4-Jun-2008	<b>Docket No.</b> 2008-0915-PWS-E	<b>PCW</b>	
<b>Respondent</b> City of Elsa	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 35996	<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101219665			
<b>Media [Statute]</b> Public Water Supply			
<b>Enf. Coordinator</b> Tel Croston			
<b>Violation Number</b> <input type="text" value="1"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code §§ 290.110(e)(2) and (e)(5), and 290.111(h)(3) and (h)(11)"/>		
<b>Violation Description</b>	<input type="text" value="Failed to submit surface water monthly operating reports by the tenth day of the month following the end of the reporting period. Specifically, the City of Elsa failed to submit monthly operating reports for the months of September 2006 through March 2008."/>		
<b>Base Penalty</b>		<input type="text" value="\$1,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Harm</b>		
	Major	Moderate	Minor
<b>Release</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
<b>Falsification</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	x	<input type="text"/>	<input type="text"/>
			<b>Percent</b> <input type="text" value="25%"/>
<b>Matrix Notes</b>	<input type="text" value="Failed to comply with 100% of the rule requirement."/>		
<b>Adjustment</b>			<input type="text" value="\$750"/>
			<input type="text" value="\$250"/>
<b>Violation</b> 450			
<b>Number of Violation Events</b>	<input type="text" value="19"/>	<b>Number of violation days</b>	<input type="text" value="517"/>
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$4,750"/>
	monthly	x	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
<input type="text" value="Nineteen monthly events are recommended."/>			
<b>Good Faith Efforts to Comply</b>			<input type="text" value="\$0"/>
		<b>0.0% Reduction</b>	
		<small>Before NOV    NOV to EDPRP/Settlement Offer</small>	
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>	
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>	
<b>N/A</b>	x	<small>(mark with x)</small>	
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
<b>Violation Subtotal</b>			<input type="text" value="\$4,750"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	<input type="text" value="\$532"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$10,782"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$10,782"/>

## Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 35996  
**Reg. Ent. Reference No.** RN101219665  
**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
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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)				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]				0.00	\$0	\$0	\$0
Other (as needed)	\$475	10-Oct-2006	10-Apr-2008	2.42	\$57	\$475	\$532

Notes for AVOIDED costs

The avoided costs include the amount to compile and submit surface water monitoring reports, calculated from the date the first report was due to the date the last report was due (\$25 x 19 mos.).

Approx. Cost of Compliance

\$475

**TOTAL**

\$532

# Compliance History

Customer/Respondent/Owner-Operator: CN600661409 City of Elsa Classification: AVERAGE Rating: 0.85  
Regulated Entity: RN101219665 CITY OF ELSA Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1080005  
WATER LICENSING LICENSE 1080005  
Location: 500 WEST 5TH STREET, ELSA. HIDALGO COUNTY, TX.  
TCEQ Region: REGION 15 - HARLINGEN  
Date Compliance History Prepared: May 28, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 28, 2003 to May 28, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Tel Croston Phone: 239-5717

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 05/28/2006 ADMINORDER 2005-1526-PWS-E  
Classification: Major
- Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)
- Description: Violated the MCL for TTHM in the third and fourth quarters of 2004.  
Classification: Major
- Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)
- Description: Violated the MCL for TTHM in the fourth quarter of 2004.
- 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  | 06/06/2003 | (61010)  |
| 2  | 12/12/2003 | (257469) |
| 3  | 03/12/2004 | (265539) |
| 4  | 07/07/2004 | (278190) |
| 5  | 07/29/2005 | (401502) |
| 6  | 08/26/2005 | (402346) |
| 7  | 12/16/2005 | (449441) |
| 8  | 07/17/2006 | (485324) |
| 9  | 08/29/2006 | (488851) |
| 10 | 01/10/2007 | (533842) |
| 11 | 07/02/2007 | (561329) |
| 12 | 08/20/2007 | (570208) |
| 13 | 05/19/2008 | (617300) |

14 05/20/2008 (670931)  
 15 05/20/2008 (608738)  
 16 05/20/2008 (615724)  
 17 05/20/2008 (609107)  
 18 05/20/2008 (609086)  
 19 05/20/2008 (609063)  
 20 05/20/2008 (609103)  
 21 05/20/2008 (641939)  
 22 05/20/2008 (608991)  
 23 05/20/2008 (609072)  
 24 05/20/2008 (641973)  
 25 05/20/2008 (609009)  
 26 05/20/2008 (609109)  
 27 05/20/2008 (615740)  
 28 05/20/2008 (609114)  
 29 05/20/2008 (641975)  
 30 05/20/2008 (609065)  
 31 05/20/2008 (608726)  
 32 05/22/2008 (671721)

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

- 1 Date 06/04/2003 (61010)
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)
- Description: Failure to employ at least one certified Class "B" surface water operator when the surface water plant is in operation.
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(C)
- Description: Failure to provide at least one functional standby unit of each capacity for all disinfecting equipment in surface water treatment plants to ensure uninterrupted operation.
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(2)(A)
- Description: Failure to monitor and record the disinfectant residual entering the distribution system on a continuous basis.
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)
- Description: Failure to provide an operable and accurate benchtop pH meter at the water treatment plant to monitor the effectiveness of any chemical treatment process.
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
- Description: Failure to provide maintenance to the filter surface wash control valve at the water treatment plant to ensure the reliability of the filtration units.
- 2 Date 12/12/2003 (257469)
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)
- Description: Failure to employ at least one certified Class "B" surface water operator when the surface water plant is in operation.
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(2)(A)
- Description: Failure to monitor and record the disinfectant residual entering the distribution system on a continuous basis.
- Self Report? NO Classification Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)
- Description: Failure to provide an operable and accurate benchtop pH meter at the water treatment plant to monitor the effectiveness of any chemical treatment process.
- 3 Date 08/19/2005 (402346)
- Self Report? NO Classification Minor
- Rqmt Prov: PA 30 TAC 290.46(m)
- Description: Failure to provide adequate maintenance by a public water system to ensure the good working condition and general appearance of the system's facilities and equipment.

	Self Report?	NO	Classification	Minor
	Rqmt Prov:	PERMIT 30 TAC 290.44(h)(4)		
	Description:	Failure to test backflow prevention assemblies at least annually.		
	Self Report?	NO	Classification	Minor
	Rqmt Prov:	PERMIT 30 TAC 290.42(f)(1)(E)		
	Description:	Failure to minimize the possibility of leaks and spills.		
	Self Report?	NO	Classification	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
	Description:	Failure to provide adequate maintenance by a public water system to ensure the good working condition and general appearance of the system's facilities and equipment.		
	Self Report?	NO	Classification	Minor
	Rqmt Prov:	PERMIT 30 TAC 290.121(a)		
	Description:	Failure to maintain an up-to-date chemical and microbiological monitoring plan.		
	Self Report?	NO	Classification	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(1)		
	Description:	Failure to calibrate flow measuring devices at least once every twelve months.		
	Self Report?	NO	Classification	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)		
	Description:	Failure to calibrate on-line turbidimeter at least every 90 days.		
	Self Report?	NO	Classification	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)		
	Description:	Failure to calibrate continuous disinfection residual analyzers at least every 90 days.		
4	Date	08/29/2006 (488851)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
	Description:	Failure to provide flow measuring devices to measure the raw water supplied to the plant, the treated water used to backwash the filters, and the treated water discharged from the plant.		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(8)		
	Description:	Failure to maintain the two ground storage tanks in strict accordance with current AWWA standards.		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
	Description:	Failure to provide adequate maintenance by a public water system to ensure the good working condition and general appearance of the system's facilities and equipment.		
5	Date	10/31/2006 (608991)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	September 2006- Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
6	Date	12/07/2006 (570208)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	October 2006 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
7	Date	12/28/2006 (608726)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2)		

		30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	November 2006 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
8	Date	01/31/2007 (608738)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	December 2006 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
9	Date	03/09/2007 (609009)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	January 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
10	Date	04/11/2007 (609063)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	February 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
11	Date	05/07/2007 (609065)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	March 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
12	Date	06/07/2007 (609072)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	April 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
13	Date	07/02/2007 (561329)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
	Description:	Failure to provide flow measuring devices to measure the raw water supplied to the plant, the treated water used to backwash the filters, and the treated water discharged from the plant.		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(8)		
	Description:	Failure to maintain the two ground storage tanks in strict accordance with current AWWA standards.		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
	Description:	Failure to provide adequate maintenance by a public water system 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(m)		
	Description:	Failure to initiate a maintenance program to ensure the reliability and general		

appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.

	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(15)(C)(i)		
	Description:	Failure to provide adequate equipment for making pH determinations.		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(3)(C)		
	Description:	Failure to provide at least one functional standby unit of each capacity for all disinfecting equipment in surface water treatment plants to ensure uninterrupted operation.		
14	Date	07/11/2007 (609086)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	May 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
15	Date	08/07/2007 (609103)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	June 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
16	Date	09/14/2007 (609107)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	July 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
17	Date	11/14/2007 (609109)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	August 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
18	Date	11/14/2007 (615724)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	October 2007-Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
19	Date	11/14/2007 (609114)		
	Self Report?	NO	Classification	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(2) 30 TAC Chapter 290, SubChapter F 290.110(e)(5) 30 TAC Chapter 290, SubChapter F 290.111(e)(2) 30 TAC Chapter 290, SubChapter F 290.111(e)(7)		
	Description:	September 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.		
20	Date	12/27/2007 (615740)		
	Self Report?	NO	Classification	Moderate

- Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(7)
- Description: November 2007-Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
- 21 Date 01/31/2008 (641939)  
Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(7)  
Description: December 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
- 22 Date 03/03/2008 (641973)  
Self Report? NO Classification Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(7)  
Description: January 2008 - Failure to submit surface water monthly operating report by the
- 23 Date: 03/31/2008 (641975)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(7)  
Description: February 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
- 24 Date: 04/30/2008 (670931)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(e)(7)  
Description: March 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
- 25 Date: 05/08/2008 (617300)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
Description: Failure to provide flow measuring devices to measure the raw water supplied to the plant, the treated water used to backwash the filters, and the treated water discharged from the plant.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: Failure to maintain the two ground storage tanks in strict accordance with current AWWA standards.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to provide adequate maintenance by a public water system 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(m)  
Description: Failure to initiate a maintenance program to ensure the reliability and general appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.
- Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(15)(C)(i)  
Description: Failure to provide adequate equipment for making pH determinations.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(C)

Description: Failure to provide at least one functional standby unit of each capacity for all disinfecting equipment in surface water treatment plants to ensure uninterrupted operation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(5)

Description: Failure to have two functioning clarifiers: Mr. Garza stated that both clarifiers were approximately 1/2 full of sludge and that the bearings on both clarifier motors were defective.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(E)

Description: Failure to provide backwash recycling report. On March 24, 2008, Mr. Garza stated that he could not provide records due to a non-functioning SCADA system.

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  
THE CITY OF ELSA,  
RN101219665

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-0915-PWS-E**

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

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

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

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

**FINDINGS OF FACT**

1. The City owns and operates a public water supply system at 500 West Fifth Street, Elsa, Hidalgo County, Texas (the "Facility").
2. The Facility provides water for human consumption, has 1,741 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 Tex. Admin. Code § 290.38(63).

3. During a records review conducted on April 11, 2008, a TCEQ Central Office investigator documented that the City failed to submit surface water monthly operating reports by the tenth day of the month following the end of the reporting period. Specifically, the City failed to submit monthly operating reports for the months of September 2006 through March 2008.
4. The City received notice of the violations on or about May 28, 2008.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, the City failed to submit surface water monthly operating reports by the tenth day of the month following the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(2) and (e)(5) and 290.111(h)(3) and (h)(11).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of ten thousand seven hundred eighty-two dollars (\$10,782.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE ch. 341. The City has paid ten thousand seven hundred eighty-two dollars (\$10,782.00) of the administrative penalty.

### ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of ten thousand seven hundred eighty-two dollars (\$10,782.00) as set forth in Conclusion of Law No. 4 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely

resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Elsa; Docket No. 2008-0915-PWS-E" to:

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

2. The City shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, the City shall:
  - i. Begin submitting properly completed monthly water works operations reports by the tenth day of the month following the end of the reporting period, as required by 30 TEX. ADMIN. CODE § 290.110(e); and
  - ii. Submit to the Commission a copy of the public notice sent to the City of Elsa's customers with information about the surface water monthly operating report violations. The copy of the public notice shall be mailed to:

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

- b. Within 45 days after the effective date of this Agreed Order, the City shall 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.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that

the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

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

and:

Jaime Garza, Water Section Manager  
Texas Commission on Environmental Quality  
Harlingen Regional Office  
1804 West Jefferson Ave.  
Harlingen, Texas 78550-5247

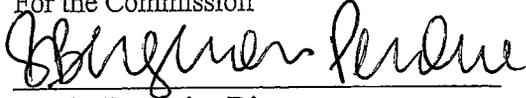
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any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

7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Agreed Order to the City, or three days after the date on which the Commission mails notice of this Agreed Order to the City, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



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

8/10/2009

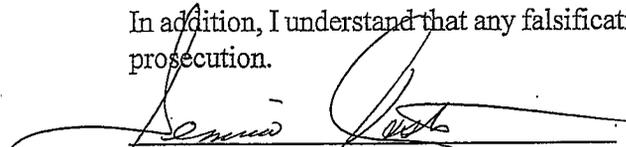
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Elsa. I represent that I am authorized to agree to the attached Agreed Order on behalf of the City of Elsa, 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 also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on the City of Elsa's compliance history;
- Greater scrutiny of any permit applications submitted by the City of Elsa;
- 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 against the City of Elsa;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

Senovio Castillo

Name (printed or typed)

Authorized Representative

City of Elsa

June 17, 2009  
Date

MAYOR  
Title