

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2009-0160-PWS-E **TCEQ ID:** RN101189736 and RN101274165 **CASE NO.:** 19857**RESPONDENT NAME:** Sam Rayburn Water, Inc.

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lakewood Water System, located one mile east of Farm-to-Market Road ("FM") 705 and two miles south of FM 83, San Augustine County and Powell Point Water System, located at the intersection of FM 705 and FM 3127, San Augustine County</p> <p><b>TYPE OF OPERATION:</b> Public water supplies</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 23, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Don Johnson, President, Sam Rayburn Water, Inc., 1403 Mulberry Court, Lufkin, Texas 75904-5386  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 14, 2008 and February 4, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 16, 2008 and February 6, 2009 (NOE)</p> <p><b>Background Facts:</b> These were record reviews.</p> <p><b>WATER</b></p> <p>1) Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average at the Lakewood Facility [30 TEX. ADMIN. CODE § 290.113(f)(4), TEX. HEALTH &amp; SAFETY CODE § 341.0315(c), and Agreed Order Docket No. 2004-1508-PWS-E, Ordering Provision 2.a].</p> <p>2) Failure to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5"), based on a running annual average at the Lakewood Facility [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average at the Powell Point Facility [30 TEX. ADMIN. CODE § 290.113(f)(4), TEX. HEALTH &amp; SAFETY CODE § 341.0315(c), and Agreed Order Docket No. 2005-1228-PWS-E, Ordering Provision 2.a].</p> <p>4) Failure to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average at the Powell Point Facility [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$4,475</p> <p><b>Total Deferred:</b> \$0  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$155 (remaining \$4,320 due in 36 monthly payments of \$120 each)</p> <p>RN101189736 and RN101274165  <b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> The Respondent has exhibited an indifference to legal duty by failing to comply with two prior Agreed Orders (Docket No. 2004-1508-PWS-E and 2005-1228-PWS-E).</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM and HAA5 at the Lakewood Facility and the Powell Point Facility; and</p> <p>b. 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 a.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	23-Feb-2009	Screening	23-Mar-2009	EPA Due	1-Dec-2007
	PCW	23-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Sam Rayburn Water, Inc. (Powell Point Water System)		
Reg. Ent. Ref. No.	RN101274165		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	19857	No. of Violations	2
Docket No.	2009-0160-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

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

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

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

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

Notes: 

The enhancement is due to 14 prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action, two prior NOVs containing dissimilar violations, and one prior final agreed order containing a denial of liability.

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

Notes: 

The Respondent does not meet the culpability criteria.

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

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

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

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes: 

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

Screening Date 23-Mar-2009

Docket No. 2009-0160-PWS-E

PCW

Respondent Sam Rayburn Water, Inc. (Powell Point Water System)

Policy Revision 2 (September 2002)

Case ID No. 19857

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101274165

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	14	70%
	Other written NOVs	2	4%
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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 94%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The enhancement is due to 14 prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action, two prior NOVs containing dissimilar violations, and one prior final agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 94%

<b>Screening Date</b> 23-Mar-2009	<b>Docket No.</b> 2009-0160-PWS-E	<b>PCW</b>	
<b>Respondent</b> Sam Rayburn Water, Inc. (Powell Point Water System)	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 19857	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101274165			
<b>Media [Statute]</b> Public Water Supply			
<b>Enf. Coordinator</b> Rebecca Clausewitz			
<b>Violation Number</b> <input type="text" value="1"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.113(f)(4), Tex. Health & Safety Code § 341.0315(c), and Agreed Order Docket No. 2005-1228-PWS-E, Ordering Provision 2.a.		
<b>Violation Description</b>	Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentration of TTHM was 0.150 mg/L for the fourth quarter of 2006, 0.156 mg/L for the first quarter of 2007, 0.162 mg/L for the second quarter of 2007, 0.168 mg/L for the third quarter of 2007, 0.161 mg/L for the fourth quarter of 2007, 0.159 mg/L for the first quarter of 2008, 0.139 mg/L for the second quarter of 2008, and 0.170 mg/L for the third quarter of 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
	Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	<input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	Exceeding the MCL for TTHM has exposed the customers of the water system to significant amounts of contaminants, which do not exceed levels that are protective of human health.		
		<b>Adjustment</b>	<input type="text" value="\$750"/>
		<input type="text" value="\$250"/>	
<b>Violation Events</b>			
<b>Number of Violation Events</b>		<input type="text" value="3"/>	<b>Number of violation days</b>
		<input type="text" value="978"/>	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input checked="" type="checkbox"/>	
	single event	<input type="checkbox"/>	
		<input type="text" value="\$750"/>	
Three annual events are recommended, calculated from the effective date of Agreed Order Docket No. 2005-1228-PWS-E, January 26, 2006, to the end of the third quarter of 2008, September 30, 2008.			
<b>Good Faith Efforts to Comply</b>			<input type="text" value="\$0"/>
		<b>0.0% Reduction</b>	
		Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
		<b>Violation Subtotal</b>	<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>		<input type="text" value="\$790"/>	<b>Violation Final Penalty Total</b>
		<input type="text" value="\$1,455"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$1,455"/>

## Economic Benefit Worksheet

**Respondent** Sam Rayburn Water, Inc. (Powell Point Water System)  
**Case ID No.** 19857  
**Reg. Ent. Reference No.** RN101274165  
**Media** Public Water Supply  
**Violation No.** 1

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

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,500	28-Jan-2006	1-Aug-2010	4.52	\$38	\$763	\$790
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to design and implement an alternative method of disinfection for the water system, calculated from the effective date of the prior agreed order to the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$790

<b>Screening Date</b> 23-Mar-2009	<b>Docket No.</b> 2009-0160-PWS-E	<b>PCW</b>														
<b>Respondent</b> Sam Rayburn Water, Inc. (Powell Point Water System)	<i>Policy Revision 2 (September 2002)</i>															
<b>Case ID No.</b> 19857	<i>PCW Revision October 30, 2008</i>															
<b>Reg. Ent. Reference No.</b> RN101274165																
<b>Media [Statute]</b> Public Water Supply																
<b>Enf. Coordinator</b> Rebecca Clausewitz																
<b>Violation Number</b>	2															
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health & Safety Code § 341.0315(c)															
<b>Violation Description</b>	Failed to comply with the MCL of 0.080 mg/L for haloacetic acids ("HAA5"), based on a running annual average. Specifically, the running annual average concentration of HAA5 was 0.067 mg/L for the second quarter of 2007, 0.071 mg/L for the third quarter of 2007, 0.069 mg/L for the fourth quarter of 2007, 0.089 mg/L for the first quarter of 2008, 0.065 mg/L for the second quarter of 2008, and 0.077 mg/L for the third quarter of 2008.															
<b>Base Penalty</b>		\$1,000														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
<b>OR</b>	<b>Release</b>	<b>Harm</b>														
		Major      Moderate      Minor														
	Actual	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px; text-align: center;">x</td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>		x												
	x															
	Potential	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>														
<b>Percent</b>		25%														
<b>&gt;&gt; Programmatic Matrix</b>																
	<b>Falsification</b>	<b>Major      Moderate      Minor</b>														
	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>							<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>								
<b>Percent</b>		0%														
<b>Matrix Notes</b>	Exceeding the MCL for HAA5 has exposed the customers of the water system to significant amounts of contaminants, which do not exceed levels that are protective of human health.															
<b>Adjustment</b>		\$750														
		\$250														
<b>Violation Events</b>																
	<b>Number of Violation Events</b>	2														
		548 <b>Number of violation days</b>														
<i>mark only one with an x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td style="width: 30px;">daily</td><td style="width: 30px;"></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td style="text-align: center;">x</td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual	x	single event		<b>Violation Base Penalty</b>
daily																
weekly																
monthly																
quarterly																
semiannual																
annual	x															
single event																
		\$500														
Two annual events are recommended.																
<b>Good Faith Efforts to Comply</b>		<b>0.0% Reduction</b>														
		\$0														
	<b>Before NOV</b>	<b>NOV to EDPRP/Settlement Offer</b>														
Extraordinary	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>					<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>										
Ordinary	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>					<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> <tr><td style="width: 30px;"></td><td style="width: 30px;"></td></tr> </table>										
N/A	x	(mark with x)														
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.															
<b>Violation Subtotal</b>		\$500														
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>														
<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b>														
		\$970														
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$970														

### Economic Benefit Worksheet

**Respondent** Sam Rayburn Water, Inc. (Powell Point Water System)  
**Case ID No.** 19857  
**Reg. Ent. Reference No.** RN101274165  
**Media** Public Water Supply  
**Violation No.** 2

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

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

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs associated with this violation are included in the economic benefit of violation no. 1.

**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

\$0

**TOTAL**

\$0



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600636112 Sam Rayburn Water, Inc. Classification: Rating:  
Regulated Entity: RN101274165 POWELL POINT WATER SYSTEM Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2030023  
WATER LICENSING LICENSE 2030023  
Location: AT THE INTERSECTION OF FM 705 AND FM 3127, SAN AUGUSTINE COUNTY, TEXAS  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: March 23, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 23, 2004 to March 23, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Rebecca Clausewitz Phone: (210) 403-4012

## 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 judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/26/2006 ADMINORDER 2005-1228-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 2nd and 3rd Quarters 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	09/15/2004	(334218)
2	11/18/2004	(339639)
3	06/30/2005	(397943)
4	01/17/2007	(726318)
5	09/27/2007	(726145)
6	09/28/2007	(726133)
7	12/11/2007	(726137)
8	12/11/2007	(726149)
9	02/08/2008	(726139)

10 02/08/2008 (726157)  
 11 08/01/2008 (681924)  
 12 08/06/2008 (726142)  
 13 08/06/2008 (726162)  
 14 09/03/2008 (726165)  
 15 09/15/2008 (726143)  
 16 12/05/2008 (725423)  
 17 12/05/2008 (726168)  
 18 02/06/2009 (726131)  
 19 02/18/2009 (726445)

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

Date: 11/17/2004 (339639) CN600636112  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121  
 Description: Failure to have a monitoring plan.

Date: 01/17/2007 (726318) CN600636112  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2006.

Date: 05/18/2007 (726131) CN600636112  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2007.

Date: 09/27/2007 (726145) CN600636112  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2007.

Date: 09/28/2007 (726133) CN600636112  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2007.

Date: 12/11/2007 (726137) CN600636112  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.

Date: 12/11/2007 (726149) CN600636112  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2007.

Date: 02/08/2008 (726139) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Date: 02/08/2008 (726157) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2007.

Date: 08/01/2008 (681924) CN600636112  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121  
Description: Failure to have a monitoring plan.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: Failure to calibrate the wells meters at least once every three years.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)  
Description: Failure to meet this agency's "Minimum Water System Capacity Requirements" (well production).

Date: 08/06/2008 (726142) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Date: 08/06/2008 (726162) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2008.

Date: 09/03/2008 (726165) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2008.

Date: 09/15/2008 (726143) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

Date: 12/05/2008 (725423) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.

Date: 12/05/2008 (726168) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2008.

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	5-Jan-2009	Screening	23-Jan-2009	EPA Due	31-Aug-2008
	PCW	30-Jan-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Sam Rayburn Water, Inc. (Lakewood Water System)		
Reg. Ent. Ref. No.	RN101189736		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	19857	No. of Violations	2
Docket No.	2009-0160-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		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  \$1,250

### 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  \$800

Notes: The enhancement is due to eight prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action, two prior NOVs containing dissimilar violations, and one prior final agreed order containing a denial of liability.

**Culpability**   Enhancement Subtotal 4  \$0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5  \$0

**Economic Benefit**  Enhancement\* Subtotal 6  \$0

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

**SUM OF SUBTOTALS 1-7** Final Subtotal  \$2,050

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment  \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**  \$2,050

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty  \$2,050

**DEFERRAL**  Reduction Adjustment  \$0

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**  \$2,050

**Screening Date** 23-Jan-2009

**Docket No.** 2009-0160-PWS-E

**PCW**

**Respondent** Sam Rayburn Water, Inc. (Lakewood Water System)

*Policy Revision 2 (September 2002)*

**Case ID No.** 19857

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101189736

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Rebecca Clausewitz

**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>	8	40%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 64%

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

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

The enhancement is due to eight prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action, two prior NOVs containing dissimilar violations, and one prior final agreed order containing a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 64%

<b>Screening Date</b> 23-Jan-2009	<b>Docket No.</b> 2009-0160-PWS-E	<b>PCW</b>	
<b>Respondent</b> Sam Rayburn Water, Inc. (Lakewood Water System)	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 19857	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101189736			
<b>Media [Statute]</b> Public Water Supply			
<b>Enf. Coordinator</b> Rebecca Clausewitz			
<b>Violation Number</b> 1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.113(f)(4), Tex. Health & Safety Code § 341.0315(c), and Agreed Order Docket No. 2004-1508-PWS-E, Ordering Provision 2.a.		
<b>Violation Description</b>	Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentration of TTHM was 0.297 mg/L for the third quarter of 2007, 0.289 mg/L for the fourth quarter of 2007, 0.295 mg/L for the first quarter of 2008, 0.251 mg/L for the second quarter of 2008, and 0.330 mg/L for the third quarter of 2008.		
<b>Base Penalty</b>		\$1,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>Harm</b>			
<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>Actual</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Potential</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>OR</b>			<b>Percent</b> 25%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> 0%
<b>Matrix Notes</b>	Exceeding the MCL for TTHM has exposed the customers of the water system to significant amounts of contaminants, which do not exceed levels that are protective of human health.		
<b>Adjustment</b>		\$750	
		\$250	
<b>Violation Events</b>			
<b>Number of Violation Events</b> 3		<b>Number of violation days</b> 1072	
<i>mark only one with an x</i>	<b>daily</b>	<input type="checkbox"/>	
	<b>weekly</b>	<input type="checkbox"/>	
	<b>monthly</b>	<input type="checkbox"/>	
	<b>quarterly</b>	<input type="checkbox"/>	
	<b>semiannual</b>	<input type="checkbox"/>	
	<b>annual</b>	<input checked="" type="checkbox"/>	
	<b>single event</b>	<input type="checkbox"/>	
		<b>Violation Base Penalty</b> \$750	
Three annual events are recommended, calculated from the effective date of Agreed Order Docket No. 2004-1508-PWS-E, October 24, 2005, to the end of the third quarter of 2008, September 30, 2008.			
<b>Good Faith Efforts to Comply</b>		<b>0.0% Reduction</b> \$0	
		<small>Before NOV      NOV to EOPRP/Settlement Offer</small>	
<b>Extraordinary</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Ordinary</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>N/A</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<small>(mark with x)</small>
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
		<b>Violation Subtotal</b> \$750	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b> \$835		<b>Violation Final Penalty Total</b> \$1,230	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,230	

## Economic Benefit Worksheet

**Respondent** Sam Rayburn Water, Inc. (Lakewood Water System)  
**Case ID No.** 19857  
**Reg. Ent. Reference No.** RN101189736  
**Media** Public Water Supply  
**Violation No.** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,500	24-Oct-2005	1-Aug-2010	4.77	\$40	\$795	\$835
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed cost includes the amount to design and implement an alternative method of disinfection for the water system, calculated from the effective date of the prior agreed order to the estimated date of compliance.

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** **TOTAL**  
\$2,500 \$835



<b>Screening Date</b> 23-Jan-2009	<b>Docket No.</b> 2009-0160-PWS-E	<b>PCW</b>	
<b>Respondent</b> Sam Rayburn Water, Inc. (Lakewood Water System)	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 19857	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101189736			
<b>Media [Statute]</b> Public Water Supply			
<b>Enf. Coordinator</b> Rebecca Clausewitz			
<b>Violation Number</b> <input type="text" value="2"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health &amp; Safety Code § 341.0315(c)"/>		
<b>Violation Description</b>	<input 0.112="" 0.115="" 0.128="" 0.145="" 0.156="" 2007,="" 2008,="" 2008."="" a="" and="" annual="" average="" average.="" based="" concentration="" first="" for="" fourth="" haa5="" haa5"),="" l="" mg="" of="" on="" quarter="" running="" second="" specifically,="" the="" third="" type="text" value="Failed to comply with the MCL of 0.080 mg/L for haloacetic acids (" was=""/>		
<b>Base Penalty</b>		<input type="text" value="\$1,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>Harm</b>			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	x	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>			<input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>			<input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="Exceeding the MCL for HAA5 has exposed the customers of the water system to significant amounts of contaminants, which do not exceed levels that are protective of human health."/>		
<b>Adjustment</b>		<input type="text" value="\$750"/>	<input type="text" value="\$250"/>
<b>Violation Events</b>			
Number of Violation Events	<input type="text" value="2"/>	Number of violation days	<input type="text" value="457"/>
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	x	
	single event	<input type="text"/>	
<input type="text" value="Two annual events are recommended."/>			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
		<small>Before NOV      NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	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="\$500"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$820"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$820"/>	

## Economic Benefit Worksheet

**Respondent** Sam Rayburn Water, Inc. (Lakewood Water System)  
**Case ID No.** 19857  
**Reg. Ent. Reference No.** RN101189736  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Item Description</b>	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

The delayed costs associated with this violation are included in the economic benefit of violation no. 1.

**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

\$0

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600636112 Sam Rayburn Water, Inc. Classification: Rating:  
Regulated Entity: RN101189736 LAKEWOOD WATER SYSTEM Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2030006  
WATER LICENSING LICENSE 2030006  
Location: 1 MILE EAST OF FM 705 & 2 MILES SOUTH OF FM 83, SAN AUGUSTINE COUNTY, TEXAS  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: January 29, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 29, 2004 to January 29, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rebecca Clausewitz Phone: (210) 403-4012

## 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 judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 10/24/2005 ADMINORDER 2004-1508-PWS-E  
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(b)(1)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceedance of (TTHM) Maximum Contaminant Level (MCL) of 0.080 mg/L.

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 09/07/2004 (333356)
- 2 09/14/2004 (333975)
- 3 11/18/2004 (339304)
- 4 12/11/2007 (705582)
- 5 12/11/2007 (706562)
- 6 02/08/2008 (706564)
- 7 02/08/2008 (706569)
- 8 08/01/2008 (681914)
- 9 08/06/2008 (706572)
- 10 08/06/2008 (706580)
- 11 09/03/2008 (706589)
- 12 09/15/2008 (706591)
- 13 12/30/2008 (707666)

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

Date: 11/17/2004 (339304) CN600636112  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121  
Description: Failure to have a monitoring plan.

Date: 12/11/2007 (706562) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.

Date: 12/11/2007 (705582) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2007.

Date: 02/08/2008 (706569) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Date: 02/08/2008 (706564) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2007.

Date: 08/01/2008 (681914) CN600636112  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121  
Description: Failure to have a monitoring plan.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: Failure to calibrate the well's meter at least once every three years.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
Description: Failure to have all wires in securely mounted conduit.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain the pressure tanks (corrosion).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(c)  
Description: Failure to provide the required minimum waterline size.

Date: 08/06/2008 (706580) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Date: 08/06/2008 (706572) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2008.

Date: 09/03/2008 (706589) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2008.

Date: 09/15/2008 (706591) CN600636112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

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  
SAM RAYBURN WATER, INC.  
RN101189736  
RN101274165**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-0160-PWS-E**

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

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

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

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

### **I. FINDINGS OF FACT**

- I. The Respondent owns and operates two public water supplies:
  - a. Lakewood Water System (the "Lakewood Facility") which is located approximately one mile east of FM 705 and two miles south of FM 83 in San Augustine County, Texas, has approximately 34 service connections or serves at least 25 people per day for at least 60 days per year; and
  - b. Powell Point Water System (the "Powell Point Facility") which is located at the intersection of FM 705 and FM 3127 in San Augustine County, Texas, has approximately 177 connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on October 14, 2008, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average at the Lakewood Facility. Specifically, the running annual average concentration of TTHM was 0.297 mg/L for the third quarter of 2007, 0.289 mg/L for the fourth quarter of 2007, 0.295 mg/L for the first quarter of 2008, 0.251 mg/L for the second quarter of 2008, and 0.330 mg/L for the third quarter of 2008.
3. During a record review conducted on October 14, 2008, TCEQ staff documented that the Respondent did not comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5"), based on a running annual average at the Lakewood Facility. Specifically, the running annual average concentration of HAA5 was 0.112 mg/L for the third quarter of 2007, 0.115 mg/L for the fourth quarter of 2007, 0.128 mg/L for the first quarter of 2008, 0.145 mg/L for the second quarter of 2008, and 0.156 mg/L for the third quarter of 2008.
4. During a record review conducted on February 4, 2009, TCEQ staff documented that the Respondent did not comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average at the Powell Point Facility. Specifically, the running annual average concentration of TTHM was 0.150 mg/L for the fourth quarter of 2006, 0.156 mg/L for the first quarter of 2007, 0.162 mg/L for the second quarter of 2007, 0.168 mg/L for the third quarter of 2007, 0.161 mg/L for the fourth quarter of 2007, 0.159 mg/L for the first quarter of 2008, 0.139 mg/L for the second quarter of 2008, and 0.170 mg/L for the third quarter of 2008.
5. During a record review conducted on February 4, 2009, TCEQ staff documented that the Respondent did not comply with MCL of 0.060 mg/L for HAA5, based on a running annual average, at the Powell Point Facility. Specifically, the running annual average concentration of HAA5 was 0.067 mg/L for the second quarter of 2007, 0.071 mg/L for the third quarter of 2007, 0.069 mg/L for the fourth quarter of 2007, 0.069 mg/L for the first quarter of 2008, 0.065 mg/L for the second quarter of 2008, and 0.077 mg/L for the third quarter of 2008.
6. The Respondent received notices of the violations dated October 16, 2008 and February 6, 2009.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average at the Lakewood Facility, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4), TEX. HEALTH & SAFETY CODE § 341.0315(c), and Agreed Order Docket No. 2004-1508-PWS-E, Ordering Provision 2.a.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average at the Lakewood Facility, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).



4. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average at the Powell Point Facility, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4), TEX. HEALTH & SAFETY CODE § 341.0315(c), and Agreed Order Docket No. 2005-1228-PWS-E, Ordering Provision 2.a.
5. As evidenced by Findings of Fact No. 5, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average at the Powell Point Facility, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Four Thousand Four Hundred Seventy-Five Dollars (\$4,475) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Four Thousand Four Hundred Seventy-Five Dollars (\$4,475) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The Respondent has paid One Hundred Fifty-Five Dollars (\$155) of the administrative penalty. The remaining amount of Four Thousand Three Hundred Twenty Dollars (\$4,320) of the administrative penalty shall be payable in 36 monthly payments of One Hundred Twenty Dollars (\$120) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes failure to timely and satisfactorily comply with all the terms of this Agreed Order. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sam Rayburn Water, Inc., Docket No. 2009-0160-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM and HAA5 at the Lakewood Facility and the Powell Point Facility, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
  - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.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 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:

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

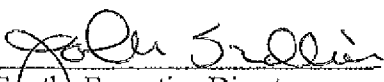
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Lakewood Facility and the Powell Point Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

10/30/2009  
Date

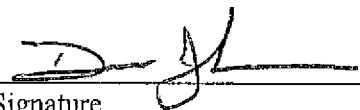
I, the undersigned, have read and understand the attached Agreed Order in the matter of Sam Rayburn Water, Inc. I am authorized to agree to the attached Agreed Order on behalf of Sam Rayburn Water, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Sam Rayburn Water, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

  
\_\_\_\_\_  
Signature

9/21/09  
\_\_\_\_\_  
Date

DON JOHNSON  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Sam Rayburn Water, Inc.

PRESIDENT  
\_\_\_\_\_  
Title

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