

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1186-PWS-E **TCEQ ID:** RN101384956 **CASE NO.:** 40074  
**RESPONDENT NAME:** City of Gregory

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Gregory, 206 West 4th Street, Gregory, San Patricio County</p> <p><b>TYPE OF OPERATION:</b> Municipal water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on May 21, 2010, alleging that the Respondent did not have a licensed operator performing process and control duties at its public water supply. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on November 8, 2010. 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. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Victor P. Lara III, Mayor, City of Gregory, P.O. Box 297, Gregory, Texas 78359-0297  <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 checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> May 21, 2010</p> <p><b>Date of Investigation Relating to this Case:</b> June 8, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 24, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failed to have all production, processing, treatment, and distribution facilities under the supervision of a water works operator who holds a Class "C" or higher license issued by the Commission [30 TEX. ADMIN. CODE § 290.46(e)(3)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.033(a)].</p>	<p><b>Total Assessed:</b> \$635</p> <p><b>Total Deferred:</b> \$127  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$508</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site 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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, ensure all production, processing, treatment, and distribution facilities are under the supervision of a water works operator who holds a Class "C" or higher license issued by the Commission; and</p> <p>b. Within 75 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>

Additional ID No(s): Public Water Supply ID No. 2050001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	21-Jun-2010	<b>Screening</b>	14-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>	15-Jul-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Gregory		
<b>Reg. Ent. Ref. No.</b>	RN101384956		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40074	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2010-1186-PWS-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Rebecca Clausewitz	
		<b>EC's Team</b>	Enforcement Team 2	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$500**

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

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

**Compliance History** **27.0%** Enhancement **Subtotals 2, 3, & 7** **\$135**

Notes

Enhancement for one prior Notice of Violation ("NOV") containing violations that are same/similar to the violations in the current enforcement action, one prior NOV containing dissimilar violations, and one prior agreed final enforcement order containing a denial of liability.

**Culpability** **No** **0.0%** 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** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts	\$4,358
Approx. Cost of Compliance	\$42,084

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$635**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$635**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$635**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$127**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$508**

Screening Date 14-Jul-2010

Docket No. 2010-1186-PWS-E

PCW

Respondent City of Gregory

Policy Revision 2 (September 2002)

Case ID No. 40074

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101384956

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
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)	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) 27%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one prior Notice of Violation ("NOV") containing violations that are same/similar to the violations in the current enforcement action, one prior NOV containing dissimilar violations, and one prior agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 14-Jul-2010

Docket No. 2010-1186-PWS-E

PCW

Respondent City of Gregory

Policy Revision 2 (September 2002)

Case ID No. 40074

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101384956

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(3)(B) and Tex. Health & Safety Code § 341.033(a)

Violation Description Failed to have all production, processing, treatment, and distribution facilities under the supervision of a water works operator who holds a Class "C" or higher license issued by the Commission. Specifically, at the time of the investigation, it was determined that the Respondent did not have a licensed individual operating the Facility.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Without a licensed operator, customers of the Facility could experience water supply or treatment problems and could be exposed to significant amounts of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 36

Table for frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the date of the investigation, June 8, 2010, to the date of case screening, July 14, 2010.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,358

Violation Final Penalty Total \$635

This violation Final Assessed Penalty (adjusted for limits) \$635

## Economic Benefit Worksheet

**Respondent:** City of Gregory  
**Case ID No.:** 40074  
**Reg. Ent. Reference No.:** RN101384956  
**Media:** Public Water Supply  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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	\$42,084	8-Jun-2010	14-Jul-2010	0.10	\$208	\$4,151	\$4,358
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

The avoided cost includes the estimated amount to employ a licensed, Class "C" operator for the Facility, calculated from the date of the investigation to the date of case screening.

Approx. Cost of Compliance

\$42,084

**TOTAL**

\$4,358

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600649594 City of Gregory Classification: AVERAGE Rating: 2.88  
 Regulated Entity: RN101384956 City of Gregory Classification: Site Rating:  
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2050001  
 WATER LICENSING LICENSE 2050001  
 Location: 206 W 4TH STREET, GREGORY, SAN PATRICIO COUNTY, TX  
 TCEQ Region: REGION 14 - CORPUS CHRISTI  
 Date Compliance History Prepared: July 14, 2010  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: July 14, 2005 to July 14, 2010  
 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator 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: 04/28/2008 ADMINORDER 2007-1627-PWS-E  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(3)  
 30 TAC Chapter 290, SubChapter D 290.45(f)(4)  
 Description: Failed to secure a water purchase contract that establishes the maximum rate at which water may be drafted on a daily and hourly basis, or that establishes a uniform purchase rate.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)  
 Description: Failed to provide an intruder-resistant fence to protect the ground storage tank.

- 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	09/29/2006	(513208)
2	12/05/2006	(532994)
3	02/23/2007	(541863)
4	09/25/2007	(594902)
5	08/14/2008	(687118)
6	10/31/2008	(705489)
7	02/12/2009	(726074)

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

Date:	09/29/2006	(513208)	CN600649594
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 290, SubChapter D 290.45(f)(3)		
	30 TAC Chapter 290, SubChapter D 290.45(f)(4)		

Description: Failed to secure a water purchase contract that establishes the maximum rate at which water may be drafted on a daily and hourly basis, or that establishes a uniform purchase rate.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure by the regulated entity to develop and maintain an up-to-date system monitoring plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vii)

Description: Failure to maintain a daily record or a monthly summary of the work performed and the number of hours worked by each of the part-time operators used to meet the requirements of 30 TAC § 240.46 (e).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failed to provide an intruder-resistant fence to protect the ground storage tank.

Self Report? NO Classification: Minor

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

Description: Failure to flush all dead-end mains monthly, or more often if required, to maintain water quality.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failure to inspect both the elevated and the ground storage tanks at least annually, to determine that the vents are in place and properly screened, the roof hatches closed and locked, flap valves and gaskets provide adequate protection against insects, rodents, and other vermin, and that the interior and exterior.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to ensure that the overflow cover on the elevation storage tank fits tightly with no gap over 1/16 of an inch.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)

Description: Failure to test, and certify to be operating within specifications, all backflow prevention assemblies which are installed to provide protection against health hazards upon installation and at least annually thereafter, by a recognized backflow prevention assembly tester.

Self Report? NO Classification: Minor

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

Description: Failure to ensure that any customer service inspection form which varies from the format found in 30 Tex. Admin. Code Chapter 290.47(d) is approved by the executive director prior being placed in use.

Self Report? NO Classification: Moderate

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

Description: Failure to maintain a minimum chloramine disinfectant residual of 0.5 milligrams per liter (mg/l) in each finished water storage tank and throughout the distribution system.

Date: 10/31/2008 (705489) CN600649594

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(B)

Description: Failure by a purchased water system serving more than 250 connections, but no more than 1,000 connections to employ an operator who holds a Class "C" of higher license.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)

Description: Failure to maintain calibration records for laboratory equipment.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(1)(A)

Description: Failure to include all samples collected at sites designated in the monitoring plan as microbiological and disinfectant residual monitoring sites in the compliance determination calculations.

Self Report? NO Classification: Minor

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

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

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.44(h)(4)		
Description:	Failure to test and certify to be operating within specifications at least annually by a recognized backflow prevention assembly tester backflow prevention assemblies which are installed to provide protection against health hazards.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(t)		
Description:	Failure by a community water system to post a legible sign at each of its production, treatment, and storage facilities.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.38(34) 30 TAC Chapter 290, SubChapter D 290.43(e)		
Description:	Failure to install all potable water storage tanks and pressure maintenance facilities in a lockable building that is designed to prevent intruder access or enclose by an intruder-resistant fence with lockable gates.		

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF GREGORY  
RN101384956**

§           **BEFORE THE**  
§  
§           **TEXAS COMMISSION ON**  
§  
§           **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1186-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Gregory ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a municipal water supply at 206 West 4th Street in Gregory, San Patricio County, Texas (the "Facility") that has approximately 685 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 29, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Six Hundred Thirty-Five Dollars (\$635) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Eight Dollars (\$508) of the administrative penalty and One Hundred Twenty-Seven Dollars (\$127) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply

- with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
  7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
  8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to have all production, processing, treatment, and distribution facilities under the supervision of a water works operator who holds a Class "C" or higher license issued by the Commission, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(3)(B) and TEX. HEALTH & SAFETY CODE § 341.033(a), as documented during an investigation conducted on June 8, 2010.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Gregory, Docket No. 2010-1186-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 60 days after the effective date of this Agreed Order, ensure all production, processing, treatment, and distribution facilities are under the supervision of a water works operator who holds a Class "C" or higher license issued by the Commission, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
- b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.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:

Water Section Manager  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

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

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 10/14/2010

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 8-23-2010

VICTOR P. LATTIN  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Gregory

\_\_\_\_\_  
Title MAYOR

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

