

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1521-MLM-E TCEQ ID NO.: RN101385151 CASE NO.: 36564**  
**RESPONDENT NAME: CITY OF CORPUS CHRISTI**

<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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATIONS OCCURRED:** 13101 Leopard Street, Corpus Christi, Nueces County

**TYPE OF OPERATION:** Public Water System

**SMALL BUSINESS:** N/A

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired December 21, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Epifanio Villarreal, Water Enforcement Section, MC R-14, (361) 825-3425

**TCEQ Regional Contact:** Mr. David Kennebeck, Corpus Christi Regional Office, MC R-14, (361) 825-3111

**Respondent:** Honorable Henry Garrett, Mayor of Corpus Christi, P.O. Box 9277, Corpus Christi, Texas 78469

**Respondent's Attorney:** Mr. Brad Castleberry, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> August 14 and 15, 2008</p> <p><b>Date of NOE Relating to this Case:</b> August 27, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed February 10, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on October 29, 2009.</p> <p><b>Current Compliance Status:</b> The ED recognizes that the Respondent corrected violation nos. 1 through 6 and violation no. 8. The Respondent has submitted documentation that the Morgan elevated storage tank has been permanently removed from service (violation 7).</p> <p><b>MLM:</b></p> <ol style="list-style-type: none"> <li>Failed to maintain a minimum chloramine residual of at least 0.5 milligrams per liter ("mg/L") throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.110(b)(4) and 290.46(d)(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</li> <li>Failed to provide disinfection facilities for determining the amount of disinfectant used daily as well as the amount of disinfectant remaining for use [30 TEX. ADMIN. CODE § 290.42(e)(3)(D)].</li> <li>Failed to properly house the chlorine cylinders so that they are protected from adverse weather conditions and vandalism [30 TEX. ADMIN. CODE § 290.42(e)(4)(B)].</li> <li>Failed to provide an intruder-resistant fence around the Sand Dollar Pump Station, the Morgan elevated storage tank, and the east side of the water treatment plant [30 TEX. ADMIN. CODE § 290.42(m)].</li> </ol>	<p><b>Total Assessed:</b> \$10,481</p> <p><b>Total Deferred:</b> \$10,481  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input checked="" type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$0</p> <p>The administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP) (Nueces County – Coastal Bend Bays &amp; Estuaries Program).</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Three or more NOVs over the prior five-year period for the same violation (violation 1).</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> <li>Began injecting chlorine and liquid ammonium sulfate ("LAS") at Plant No. 1 in accordance with the CT study which was approved by the TCEQ on December 29, 2008 (violation 6).</li> <li>Provided a scale for the one-ton gas chlorine tank (violation 2).</li> <li>Received an exception from TCEQ regarding the filter-to-waste air gap requirement (violation 5).</li> <li>Submitted documentation indicating that the two chlorine cylinders were taken by the vendor (violation 3).</li> <li>Repaired fences at the Sand Dollar Pump Station, Morgan elevated tank, and the east side of the water treatment plant so they are rendered intruder resistant (violation 4).</li> <li>Began maintaining a chloramine residual of 0.5 mg/L at the Morgan elevated storage tank, and implemented a standard operating procedure to monitor chloramine residuals to ensure appropriate disinfectant concentrations are maintained (violation 1).</li> <li>Submitted documentation demonstrating compliance regarding flushing dead-end mains at monthly intervals (violation 8).</li> </ol> <p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Implement and complete a Supplemental Environmental Project (SEP).</li> <li>Within 90 days: <ol style="list-style-type: none"> <li>Prepare and file an application for authorization to beneficially reuse treated effluent produced by the facility; and</li> <li>Prepare and file an application for authorization to maintain sludge in the Pollywog Pond system.</li> </ol> </li> </ol>

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p>5. Failed to provide an air gap connection to waste for the filter-to-waste (“FTW”) connection [30 TEX. ADMIN. CODE § 290.42(d)(2)(E)].</p> <p>6. Failed to ensure that the disinfection contact time (“CT”) is based on tracer study data or a theoretical analysis and approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs [30 TEX. ADMIN. CODE § 290.111(d)(2)(B)].</p> <p>7. Failed to calibrate the pressure gauge at no more than two foot intervals [30 TEX. ADMIN. CODE § 290.43(c)(4)].</p> <p>8. Failed to flush all dead-end mains at monthly intervals [30 TEX. ADMIN. CODE § 290.46(1)].</p> <p>9. Failed to prevent an unauthorized discharge of liquid plant sludge from the surface water treatment plant [30 TEX. WATER CODE § 26.121(a)(2)].</p>		<p>3. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit applications in Ordering Provision nos. 2.a. and 2.b., above, within 30 days after the date of such requests or by any other deadline specified in writing.</p> <p>4. Within 30 days after the date of completion of each Ordering Provision above, submit documentation to demonstrate compliance.</p> <p>5. If the application for authorization to beneficially reuse treated effluent produced by the facility is denied, immediately cease all unauthorized liquid sludge discharges into the pollywog ponds.</p> <p>6. If the application for authorization to maintain sludge in the Pollywog Pond system is denied, within 30 days:</p> <p style="padding-left: 20px;">a. Remove the liquid sludge from the first pollywog pond; and</p> <p style="padding-left: 20px;">b. Begin disposing of the liquid sludge from the water treatment process at an authorized facility.</p> <p>7. Within 45 days after the occurrence of Ordering Provision nos. 5, 6.a. and/or 6.b., submit written certification to demonstrate compliance.</p>

**Attachment A**  
**Docket Number: 2008-1521-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Corpus Christi  
**Penalty Amount:** Ten Thousand Four Hundred Eighty-One Dollars [\$10,481]  
**SEP Amount:** Ten Thousand Four Hundred Eighty-One Dollars [\$10,481]  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Coastal Bend Bays & Estuaries Program, Inc. (“CBBEP”)  
**Location of SEP:** Nueces County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Respondent will contribute to CBBEP for its *Colonial Waterbird Rookery Island Enhancement project* in Nueces County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the CBBEP and the TCEQ.

Shamrock and Causeway Islands are important rookery islands with heavy bird usage that are experiencing significant loss of wetland and rookery habitat due to dredging activities and erosion from waves and ships.

Specifically, the contribution will be used to pay for the labor and materials cost associated with preventing erosion in the unprotected areas of the islands and restoring parts of the islands that have suffered from erosion. The project will protect critical bird habitat and also enhance wetlands.

Respondent shall not profit from SEP in any manner. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by enhancing the colonial waterbird habitat on Shamrock and Causeway Island in Nueces County. Specifically, the project will result in:

- Stabilization of the Islands;
- Protection of the birds and other wildlife inhabiting Causeway Islands;
- Reduction of erosion;
- Creation of wetland habitat and bird nesting habitat;
- Creation of submerged aquatic vegetation; and
- Maintenance of the Corpus Christi Bay System

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)  
1716 Briarcrest Drive, Suite 510  
Bryan, TX 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

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

Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	2-Sep-2008			
	<b>PCW</b>	2-Oct-2008	<b>Screening</b>	19-Sep-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	City of Corpus Christi				
<b>Reg. Ent. Ref. No.</b>	RN101385151				
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	36564	<b>No. of Violations</b>	8		
<b>Docket No.</b>	2008-1521-MLM-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes		
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Epifanio Villarreal		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000	

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$4,900**

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

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

**Compliance History** **44.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,156**

Notes: The penalty enhancement is due to one prior agreed final enforcement order without a denial of liability, three prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, and two dissimilar NOVs.

**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** **\$25**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts **\$631**  
 Approx. Cost of Compliance **\$8,427**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$7,031**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

**Final Penalty Amount** **\$7,031**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,031**

**DEFERRAL** **0.0%** 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** **\$7,031**

**PCW 1**

Screening Date 19-Sep-2008

Docket No. 2008-1521-MLM-E

PCW

Respondent City of Corpus Christi

Policy Revision 2 (September 2002)

Case ID No. 36564

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101385151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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%
<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) 44%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to one prior agreed final enforcement order without a denial of liability, three prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, and two dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 44%

**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 290.110(b)(4), and 290.46(d)(2)(B), and Tex. Health & Safety Code § 341.0315(c)

**Violation Description**  
 Failed to maintain a minimum chloramine residual of at least 0.5 milligrams per liter ("mg/L") throughout the distribution system at all times. Specifically, at the time of the investigation, it was documented that the chloramine residual at the sample tap from the Morgan elevated storage tank was measured at 0.06 mg/L. In addition, follow-up sampling conducted on August 20, 2008, revealed a chloramine residual of 0.31mg/L at the Morgan elevated storage tank.

**Base Penalty**

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

OR	<b>Harm</b>			Percent
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	x	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**  
 If the water supply does not maintain proper levels of disinfection, customers of the water supply could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

- mark only one with an x*
- daily
  - monthly
  - quarterly
  - semiannual
  - annual
  - single event

**Violation Base Penalty**

Two single events are recommended.

**Good Faith Efforts to Comply**  Reduction

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

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

**Violation Subtotal**

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

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**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				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)	\$200	15-Aug-2008	20-Aug-2008	0.00	\$0	\$200	\$200

Notes for AVOIDED costs

The avoided cost includes the amount for additional maintenance, oversight, and an increase in chlorine dosage that could have avoided or prevented the low disinfectant residual levels, calculated for the dates when the violations occurred.

Approx. Cost of Compliance \$200

**TOTAL** \$200

**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.42(e)(3)(D)  
**Violation Description** Failed to provide facilities for determining the amount of disinfectant used daily as well as the amount of disinfectant remaining for use. Specifically, at the time of the investigation, it was documented that the one ton gas chlorine tanks at the Sand Dollar Pump Station were not equipped with a scale.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential			x		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Failure to provide facilities for determining the amount of disinfection used daily would not allow a means of proper levels of disinfection and customers of the water supply could be exposed to a significant amount of contaminants which would not exceed levels that are protective of human health.

**Adjustment** \$750

\$250

**Violation Events**

Number of Violation Events 1 36 Number of violation days

*mark only one with an x*

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$250

One quarterly event is recommended from the date of the investigation, August 14, 2008, to the date of screening, September 19, 2008.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

**Violation Subtotal** \$250

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

**Estimated EB Amount** \$123 **Violation Final Penalty Total** \$360

**This violation Final Assessed Penalty (adjusted for limits)** \$360

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$2,457	14-Aug-2008	1-May-2009	0.71	\$6	\$117	\$123
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 include the amount to provide disinfection facilities for the gas chlorine tanks at the Sand Dollar Pump Station, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,457

**TOTAL** \$123

**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.42(e)(4)(B)  
**Violation Description** Failed to properly house the chlorine cylinders so that they are protected from adverse weather conditions and vandalism. Specifically, at the time of the investigation, it was documented that the one ton gas chlorine tanks at the Sand Dollar Pump Station were installed outside in an area not protected from adverse weather conditions.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					50%
Potential	x				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Failure to properly house the chlorine cylinders may allow persons or adverse weather conditions to damage or vandalize the cylinders exposing the water supply to significant amounts of contaminants which would exceed levels that are protective of human health.

**Adjustment** \$500

\$500

**Violation Events**

Number of Violation Events 4 36 Number of violation days

*mark only one with an x*

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$2,000

Four monthly events are recommended (two events per cylinder) from the date of the investigation, August 14, 2008, to the date of screening, September 19, 2008.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$2,000

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

**Estimated EB Amount** \$112 **Violation Final Penalty Total** \$2,880

**This violation Final Assessed Penalty (adjusted for limits)** \$2,880

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings	\$2,000	14-Aug-2008	1-Jun-2009	0.80	\$5	\$106	\$112
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to properly house the chlorine cylinders, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,000	<b>TOTAL</b>	\$112
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**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.42(m)  
**Violation Description** Failed to provide an intruder-resistant fence around the Sand Dollar Pump Station, the Morgan elevated storage tank, and the east side of the water treatment plant. Specifically at the time of the investigation, it was documented that the fence around the Sand Dollar Pump Station had a large gap and was missing some barbed wire strands along the north west side. In addition, the fence around the Morgan elevated tank was not 6 feet in height. Lastly, a large section of the fence around the water treatment plant's east side was missing portions of barbed wire strands.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential		x		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Failing to provide intruder-resistant fences for the pumps and treatment plant may allow persons to enter and vandalize the pumps and appurtenances which may compromise the system's ability to provide a safe and adequate water supply exposing customers to a significant amount of pollutants which would not exceed levels that are protective of human health.

**Adjustment** \$750

\$250

**Violation Events**

Number of Violation Events 3 36 Number of violation days

*mark only one with an x*

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$750

Three quarterly events are recommended (one event per site) from the date of the investigation, August 14, 2008, to the date of screening, September 19, 2008.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$750

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

**Estimated EB Amount** \$167 **Violation Final Penalty Total** \$1,080

**This violation Final Assessed Penalty (adjusted for limits)** \$1,080

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$3,000	14-Aug-2008	1-Jun-2009	0.80	\$8	\$159	\$167
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 render the existing fences intruder-resistant around the Sand Dollar Pump Station, the Morgan elevated storage tank, and the east side of the water treatment plant, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$3,000	<b>TOTAL</b>	\$167
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**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 5  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.42(d)(2)(E)  
**Violation Description** Failed to provide an air gap connection to waste for the filter-to-waste ("FTW") connection at the Facility. Specifically, at the time of the investigation, it was documented that the weir trough provided at the discharge end of the FTW line is an obstruction that causes water to backup to the FTW line and forces the water up and over the weir trough. As a result, the backwash wastewater will never fully exit the FTW line posing the risk of a cross connection when the filter is brought back on-line.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Failing to provide an air gap connection for the filter-to-waste connection may allow cross connection contamination which could expose customers of the water supply to significant amounts of contaminants which would exceed levels that are protective of human health.

**Adjustment** \$500

\$500

**Violation Events**

Number of Violation Events 2 36 Number of violation days

*mark only one with an x*

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,000

Two monthly events are recommended from the date of the investigation, August 14, 2008, to the date of screening, September 19, 2008.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$1,000

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

**Estimated EB Amount** \$10 **Violation Final Penalty Total** \$1,440

**This violation Final Assessed Penalty (adjusted for limits)** \$1,440

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**Media** Public Water Supply  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	14-Aug-2008	1-May-2009	0.71	\$0	\$9	\$10
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide an air gap connection to waste for the FTW connection at the Facility, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

**TOTAL** \$10

**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 6  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.111(d)(2)(B)  
**Violation Description** Failed to ensure that the disinfection contact time ("CT") used by the City is based on tracer study data or a theoretical analysis and approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs. Specifically, at the time of the investigation, it was documented that the Facility was injecting chlorine and liquid ammonium sulfate ("LAS") into the filter effluent as it entered the clearwell at Plant No. 1, Disinfection Zone No. 3. According to the disinfection protocol at Plant No. 1, Disinfection Zone 3, approved by the Executive Director on January 8, 2008, the City is required to inject chlorine and LAS in the filter effluent piping 280 feet up stream of the clearwell.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential				x	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Failing to disinfect the system's water in accordance with the system's CT study could result in improper disinfection of the water exposing customers to insignificant amounts of contaminants which would not exceed levels that are protective of human health.

**Adjustment** \$900

\$100

**Violation Events**

Number of Violation Events 1 36 Number of violation days

*mark only one with an x*

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$100

One single event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$100

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

**Estimated EB Amount** \$1 **Violation Final Penalty Total** \$144

**This violation Final Assessed Penalty (adjusted for limits)** \$144

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**Media** Public Water Supply  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				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)	\$20	14-Aug-2008	1-May-2009	0.71	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the amount to follow the CT study, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$20

**TOTAL** \$1

**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 7  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.43(c)(4)  
**Violation Description** Failed to calibrate the pressure gauge at no more than two foot intervals. Specifically, at the time of the investigation, it was documented that the pressure gauge at the Morgan elevated storage tank was calibrated at greater than two foot intervals.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			x		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Failing to provide the storage tank with a properly calibrated water level indicator prevents the water operator from making necessary pressure calculations and adjustments and could expose customers to insignificant amount of contaminants that do not exceed levels protective of human health.

**Adjustment** \$900

\$100

**Violation Events**

	1	36	Number of violation days
<i>mark only one with an x</i>	daily		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

**Violation Base Penalty** \$100

One single event is recommended.

**Good Faith Efforts to Comply** 25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$25

Extraordinary		
Ordinary	x	
N/A		(mark with x)

**Notes** The Respondent permanently placed the Morgan elevated storage tank out of service on August 22, 2008.

**Violation Subtotal** \$75

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

**Estimated EB Amount** \$0 **Violation Final Penalty Total** \$119

**This violation Final Assessed Penalty (adjusted for limits)** \$119

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**Media** Public Water Supply  
**Violation No.** 7

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)	\$50	14-Aug-2008	22-Aug-2008	0.02	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to calibrate the pressure gauge, calculated from the date of the investigation to the date the tank was permanently removed from service.

### 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 \$50

**TOTAL** \$0

**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 8  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.46(l)  
**Violation Description** Failed to flush all dead-end mains at monthly intervals. Specifically, at the time of the investigation, it was documented that the dead-end mains were not flushed during the months of June and July 2008.

**Base Penalty** \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential				x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Failing to flush dead-end mains at monthly intervals could allow contaminants to build up in the lines and expose customers of the water supply to insignificant amounts of contaminants that would not exceed levels that are protective of human health.

**Adjustment** \$900

\$100

Violation Events

	2	36	Number of violation days
<i>mark only one with an x</i>	daily		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

**Violation Base Penalty** \$200

Two single events are recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$200

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

**Estimated EB Amount** \$19 **Violation Final Penalty Total** \$288

**This violation Final Assessed Penalty (adjusted for limits)** \$288

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi  
**Case ID No.** 36564  
**Reg. Ent. Reference No.** RN101385151  
**Media** Public Water Supply  
**Violation No.** 8

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	\$500	30-Jun-2008	1-Apr-2009	0.75	\$19	n/a	\$19
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 initiate a flushing program at monthly intervals. The Date required is the first month documented that dead-end mains were not flushed. The final date is the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$19



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	2-Sep-2008			
	<b>PCW</b>	2-Oct-2008	<b>Screening</b>	19-Sep-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	City of Corpus Christi				
<b>Reg. Ent. Ref. No.</b>	RN101385151				
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	36564	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2008-1521-MLM-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes		
<b>Multi-Media</b>	Public Water Supply	<b>Enf. Coordinator</b>	Epifanio Villarreal		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	38.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$950
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**Notes**  
The penalty enhancement is due to one prior agreed final enforcement order without a denial of liability, one prior Notice of Violation ("NOV") containing a violation that is the same as the violations in the current enforcement action, and four dissimilar NOV's.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$158  
Approx. Cost of Compliance \$5,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,450
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$3,450

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,450
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$3,450
------------------------	---------

**PCW 2**

**Screening Date** 19-Sep-2008

**Docket No.** 2008-1521-MLM-E

**PCW**

**Respondent** City of Corpus Christi

*Policy Revision 2 (September 2002)*

**Case ID No.** 36564

*PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN101385151

**Media [Statute]** Water Quality

**Enf. Coordinator** Epifanio Villarreal

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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)** 38%

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

No

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

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

Average Performer

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

**>> Compliance History Summary**

**Compliance History Notes** The penalty enhancement is due to one prior agreed final enforcement order without a denial of liability, one prior Notice of Violation ("NOV") containing a violation that is the same as the violations in the current enforcement action, and four dissimilar NOVs.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 38%

**Screening Date** 19-Sep-2008 **Docket No.** 2008-1521-MLM-E **PCW**  
**Respondent** City of Corpus Christi *Policy Revision 2 (September 2002)*  
**Case ID No.** 36564 *PCW Revision June 12, 2008*  
**Reg. Ent. Reference No.** RN101385151  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR	<b>Harm</b>			<b>Percent</b> <input type="text" value="25%"/>	
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Violation Events**

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

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

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	<b>0.0% Reduction</b>	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Corpus Christi

**Case ID No.** 36564

**Reg. Ent. Reference No.** RN101385151

**Media** Water Quality

**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	\$5,000	14-Aug-2008	1-Apr-2009	0.63	\$158	n/a	\$158
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to cease the unauthorized discharge and dispose of the sludge at an authorized facility, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

**TOTAL** \$158

# Compliance History

Customer/Respondent/Owner-Operator: CN600131858 City of Corpus Christi Classification: AVERAGE Rating: 2.49  
 Regulated Entity: RN101385151 O N STEVENS WATER TREATMENT Classification: AVERAGE Site Rating: 3.01  
 PLANT BY DEFAULT

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1780003  
 WATER LICENSING LICENSE 1780003  
 PETROLEUM STORAGE TANK REGISTRATION 76496  
 REGISTRATION

Location: 13101 LEOPARD ST, CORPUS CHRISTI, NUECES COUNTY, TX Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 14 - CORPUS CHRISTI  
 Date Compliance History Prepared: October 02, 2008  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: October 2, 2003 to October 2, 2008  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Epi Villarreal Phone: 361-825-3425

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

**Effective Date: 04/14/2008 ADMINORDER 2007-1409-MLM-E**

- Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)  
 Description: Failed to flush all dead-end mains at monthly intervals.
- Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)  
 30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to maintain a chloramine residual of at least 0.5 mg/L throughout the distribution system at all times.
- Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(1)(B)  
 Description: Failed to meet the disinfection requirements as described by the system's disinfection CT study.
- Classification: Moderate  
 Citation: TWC Chapter 26 26.121  
 Description: Failed to prevent an unauthorized discharge of filtered backwash wastewater from the surface water treatment plan.
- Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
 Description: Failed to provide a flow measuring device to measure the recycled decant water.
- Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
 Description: Failed to equip the ground storage tank with a water level indicator.
- Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(5)  
 Description: Failed to ensure the ground storage tank's inlet and outlet connections are properly located so as to prevent short-circuiting or the stagnation of water.
- Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)  
 Description: Failed to provide an air gap or an acceptable backflow prevention device for the make-up water supply line to the chlorinator at the Sand Dollar pump station.
- Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition.
- Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)  
 Description: Failure to operate the water system to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions. The system shall also be operated to maintain a minimum pressure of 20 psi during emergencies such as fire fighting.
- Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(A)  
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the acute MCL for fecal coliform bacteria for the month in August 2007.

Classification: Major

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

30 TAC Chapter 290, SubChapter F 290.122(a)(2)(A)

Description: Failed to issue a boil water notice within 24 hours after notification of an acute MCL.

Classification: Minor

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

Description: Failed to obtain all samples used to determine compliance at sampling sites designated in the monitoring plan.

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 08/12/2004 (288640)

2 08/18/2005 (403588)

3 08/29/2006 (509616)

4 08/13/2007 (645524)

5 08/30/2007 (571720)

6 09/19/2007 (594674)

7 02/25/2008 (636290)

8 08/27/2008 (700250)

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

**Date: 08/29/2006 (509616)**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)

30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to enclose the potable water storage tanks and pressure maintenance facilities by an intruder-resistant fence with lockable gates or lockable building that is designed to prevent intruder access.

Self Report? NO

Classification: Minor

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

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

**Date: 12/14/2006 (532784)**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the water within the distribution system at a minimum of 0.5 mg/L chloramine.

**Date: 05/15/2007 (559604)**

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Rqmt Prov: PERMIT 30 TAC Chapter 290 Subchapter D

Description: Failure to prevent an unauthorized discharge of an estimated 40,000 gallons of backwash water and sludge from a diversion pond.

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.039

Description: Failure to notify the TCEQ of an unauthorized discharge of backwash water and sludge from a diversion pond. The estimated discharge volume is 40, 000 gallons.

**Date: 08/13/2007 (645524)**

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)

Description: BACT - ACUTE MCL

**Date: 07/25/2008 (687319)**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the minimum chlorine disinfection concentration in the water within the distribution system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF CORPUS CHRISTI;  
RN101385151**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2008-1521-MLM-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding City of Corpus Christi (“the City”) under the authority of TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, represented by Brad Castleberry of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C., presented this agreement to the Commission.

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

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

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

**FINDINGS OF FACT**

1. The City owns and operates a public water system located at 13101 Leopard Street, Corpus Christi, Nueces County, Texas (the “Facility”).
2. The Facility provides water for human consumption, has approximately 92,290 service

connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63). The Facility has also discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.

3. During an investigation conducted on August 14 and 15, 2008, a TCEQ Corpus Christi Regional Office investigator documented that the City:
  - a. Failed to maintain a minimum chloramine residual of at least 0.5 milligrams per liter (“mg/L”) throughout the distribution system at all times. Specifically, at the time of the investigation, it was documented that the chloramine residual at the sample tap from the Morgan elevated storage tank was measured at 0.06 mg/L. In addition, follow-up sampling conducted on August 20, 2008, revealed a chloramine residual of 0.31 mg/L at the Morgan elevated storage tank.
  - b. Failed to provide disinfection facilities for determining the amount of disinfectant used daily as well as the amount of disinfectant remaining for use. Specifically, at the time of the investigation, it was documented that the one ton gas chlorine tanks at the Sand Dollar Pump Station were not equipped with a scale.
  - c. Failed to properly house the chlorine cylinders so that they are protected from adverse weather conditions and vandalism. Specifically, at the time of the investigation, it was documented that the one ton chlorine tanks located at the Sand Dollar Pump Station were installed outside in an area not protected from adverse weather conditions.
  - d. Failed to provide an intruder-resistant fence around the Sand Dollar Pump Station, the Morgan elevated storage tank, and the east side of the water treatment plant. Specifically, at the time of the investigation, it was documented that the fence around the Sand Dollar Pump Station had a large gap and was missing some barbed wire strands along the northwest side. In addition, the fence around the Morgan elevated tank was not six feet in height. Lastly, a large section of the fence around the water treatment plant’s east side was missing portions of barbed wire strands.
  - e. Failed to provide an air gap connection to waste for the filter-to-waste (“FTW”) connection at the Facility. Specifically, at the time of the investigation, it was documented that the weir trough provided at the discharge end of the FTW line is an obstruction that causes water to back up to the FTW line and forces the water up and over the weir trough. As a result, the backwash wastewater will never

fully exit the FTW line, posing the risk of a cross connection when the filter is brought back online.

- f. Failed to ensure that the disinfection contact time (“CT”) used by the City is based on tracer study data or a theoretical analysis and approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs. Specifically, at the time of the investigation, it was documented that the Facility was injecting chlorine and liquid ammonium sulfate (“LAS”) into the filter effluent as it entered the clearwell at Plant No. 1, Disinfection Zone 3. According to the disinfection protocol at Plant 1, Disinfection Zone 3, approved by the Executive Director on January 8, 2008, the City is required to inject chlorine and LAS in the filter effluent piping 280 feet upstream of the clearwell.
  - g. Failed to calibrate the pressure gauge at no more than two foot intervals. Specifically, at the time of the investigation, it was documented that the pressure gauge at the Morgan elevated storage tank was calibrated at greater than two foot intervals.
  - h. Failed to flush all dead-end mains at monthly intervals. Specifically, at the time of the investigation, it was documented that the dead-end mains were not flushed during the months of June and July 2008.
  - i. Failed to prevent an unauthorized discharge of liquid plant sludge from the surface water treatment plant. Specifically, at the time of the investigation, it was documented that liquid water treatment plant sludge from the treatment process is pumped to “pollywog ponds” which are approximately 100 feet from the Nueces River. It was noted that the City does not have a permit for discharging wastes from the water treatment process.
4. The City received notice of the violations on or about September 1, 2008.
  5. The Executive Director recognizes that the City implemented the following corrective measures at the Facility:
    - a. The City submitted documentation demonstrating compliance with its revised CT study which was approved by TCEQ on December 29, 2008. The documentation relates to the injection of chlorine and LAS at Plant No. 1, in accordance with the December 29, 2008 approved CT study and 30 TEX. ADMIN. CODE § 290.111.

- b. The City provided a scale for the one ton gas chlorine tanks in accordance with 30 TEX. ADMIN. CODE §290.42 and submitted documentation of same on February 5, 2009.
- c. The City was granted an exception from TCEQ on December 30, 2008 regarding the filter to waste air gap requirement in 30 TEX. ADMIN. CODE § 290.42(d)(2)(E).
- d. The City provided an invoice to TCEQ indicating that the two chlorine cylinders were taken by the vendor on February 5, 2009 and submitted documentation of same on February 5, 2009.
- e. The City repaired the fences at the Sand Dollar Pump Station, Morgan elevated tank, and the east side of the water treatment plant so that they are rendered intruder-resistant, in accordance with 30 TEX. ADMIN. CODE § 290.42. The City submitted documentation for the repairs to the fences at the Sand Dollar Pump Station and Morgan elevated storage tank on February 5, 2009 and for the repairs to the east side of the water treatment plant on February 4, 2009.
- f. The Executive Director recognizes that the City began maintaining a chloramine residual of 0.5 mg/L at the Morgan elevated storage tank, and a standard operating procedure was implemented to monitor the chloramine residuals to ensure appropriate disinfectant concentrations are maintained.
- g. The City submitted documentation demonstrating compliance regarding flushing dead-end mains at monthly intervals in accordance with 30 TEX. ADMIN. CODE § 290.46 on December 22, 2008.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., the City failed to maintain a minimum chloramine residual of at least 0.5 mg/L throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.110(b)(4) and 290.46(d)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).

3. As evidenced by Finding of Fact No. 3.b., the City failed to provide disinfection facilities for determining the amount of disinfectant used daily as well as the amount of disinfectant remaining for use, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3)(D).
4. As evidenced by Finding of Fact No. 3.c., the City failed to properly house the chlorine cylinders so that they are protected from adverse weather conditions and vandalism, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(B).
5. As evidenced by Finding of Fact No. 3.d., the City failed to provide an intruder-resistant fence around the Sand Dollar Pump Station, the Morgan elevated storage tank, and the east side of the water treatment plant, in violation of 30 TEX. ADMIN. CODE § 290.42(m).
6. As evidenced by Finding of Fact No. 3.e., the City failed to provide an air gap connection to waste for the FTW connection at the Facility, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(2)(E).
7. As evidenced by Finding of Fact No. 3.f., the City failed to ensure that the disinfection CT used by the City is based on tracer study data or a theoretical analysis and approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs, in violation of 30 TEX. ADMIN. CODE § 290.111(d)(2)(B).
8. As evidenced by Finding of Fact No. 3.g., the City failed to calibrate the pressure gauge at no more than two foot intervals, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4).
9. As evidenced by Finding of Fact No. 3.h., the City failed to flush all dead-end mains at monthly intervals, in violation of 30 TEX. ADMIN. CODE § 290.46(l).
10. As evidenced by Finding of Fact No. 3.i., the City failed to prevent an unauthorized discharge of liquid plant sludge from the surface water treatment plant, in violation of TEX. WATER CODE § 26.121(a)(2).
11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
12. An administrative penalty in the amount of ten thousand four hundred eighty-one dollars (\$10,481.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053 and TEX. HEALTH & SAFETY CODE § 341.049(b). Pursuant to TEX. WATER CODE § 7.067, ten thousand four hundred eighty-

one dollars (\$10,481.00) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

### ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of ten thousand four hundred eighty-one dollars (\$10,481.00) as set forth in Conclusion of Law No. 12 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Corpus Christi; Docket No. 2008-1521-MLM-E" to:

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

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067 and as set forth in Conclusion of Law No. 12, above. Ten thousand four hundred eighty-one dollars (\$10,481.00) of the assessed penalty shall be offset with the condition that the City implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall undertake the following technical requirements:
  - a. Within 90 days after the effective date of this Agreed Order, the City shall prepare and file an application pursuant to 30 TEX. ADMIN. CODE § 210.5 for

authorization to beneficially reuse treated effluent produced by the water treatment facility.

- b. Within 90 days after the effective date of this Agreed Order, the City shall prepare and file an application pursuant to 30 TEX. ADMIN. CODE § 312 for authorization to maintain sludge in the Pollywog Pond system.
- c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit applications in 3.a. and 3.b. above, within 30 days after the date of such requests or by any other deadline specified in writing.
- d. Within 30 days after the date of completion of Ordering Provision Nos. 3.a. through 3.c., the City shall submit written certification as described below.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The City shall submit copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

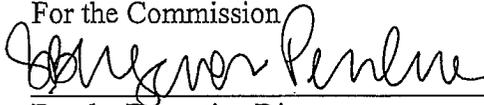
David Kennebeck, Water Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

- e. If the City's application for authorization to beneficially reuse treated effluent produced by the facility is denied by TCEQ, the City shall immediately cease all unauthorized liquid sludge discharges into the pollywog ponds.
  - f. If the City's application for authorization to maintain sludge in the Pollywog Pond system is denied by TCEQ, within 30 days the City shall:
    - i. Remove the liquid sludge from the first pollywog pond; and
    - ii. Begin disposing of the liquid sludge from the water treatment process at an authorized facility.
  - g. Within 45 days after the occurrence of 3.e. and/or 3.f., the City shall submit written certification with 3.e. and 3.f. as described in 3.d. above.
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
  5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City has the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
  6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission’s jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV’T CODE § 2001.142, the effective date is the date of hand delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date  
4/11/2010  
\_\_\_\_\_  
Date

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

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

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

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

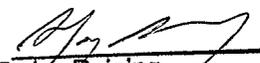
  
\_\_\_\_\_  
Signature

10/29/09  
\_\_\_\_\_  
Date

Angel R. Escobar  
\_\_\_\_\_  
Name (printed or typed)  
Authorized Representative  
City of Corpus Christi

City Manager  
\_\_\_\_\_  
Title

Approved as to form: \_\_\_\_\_

  
\_\_\_\_\_  
R. Jay Reining  
First Assistant City Attorney  
For City Attorney

**Attachment A**  
**Docket Number: 2008-1521-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Corpus Christi  
**Penalty Amount:** Ten Thousand Four Hundred Eighty-One Dollars [\$10,481]  
**SEP Amount:** Ten Thousand Four Hundred Eighty-One Dollars [\$10,481]  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Coastal Bend Bays & Estuaries Program, Inc. (“CBBEP”)  
**Location of SEP:** Nueces County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall contribute the SEP amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, Respondent will contribute to CBBEP for its *Colonial Waterbird Rookery Island Enhancement project* in Nueces County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the CBBEP and the TCEQ.

Shamrock and Causeway Islands are important rookery islands with heavy bird usage that are experiencing significant loss of wetland and rookery habitat due to dredging activities and erosion from waves and ships.

Specifically, the contribution will be used to pay for the labor and materials cost associated with preventing erosion in the unprotected areas of the islands and restoring parts of the islands that have suffered from erosion. The project will protect critical bird habitat and also enhance wetlands.

Respondent shall not profit from SEP in any manner. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by enhancing the colonial waterbird habitat on Shamrock and Causeway Island in Nueces County. Specifically, the project will result in:

- Stabilization of the Islands;
- Protection of the birds and other wildlife inhabiting Causeway Islands;
- Reduction of erosion;
- Creation of wetland habitat and bird nesting habitat;
- Creation of submerged aquatic vegetation; and
- Maintenance of the Corpus Christi Bay System

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)  
1716 Briarcrest Drive, Suite 510  
Bryan, TX 77802-2700

**3. Records and Reporting**

Concurrent with the payment of the SEP Amount, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to “Texas Commission on Environmental Quality” and mailed to:

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

Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.