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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0104-PWS-E **TCEQ ID:** RN101390409 **CASE NO.:** 39027  
**RESPONDENT NAME:** City of Center

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Center, located off State Highway 7, approximately 15 miles southwest of Center on County Road 1211, Shelby County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 26, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Chad Nehring, City Manager, City of Center, Post Office Box 1744, Center, Texas 75935  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 11, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 5, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failure to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours. Specifically, a low concentration time (the product of disinfectant concentration and effective contact time) for more than four consecutive hours was documented for every day in June, July, August, September, October, November, and December 2008 and January, February, March, April, May, and June 2009 [30 TEX. ADMIN. CODE § 290.111(d)(1)(D) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$10,075</p> <p><b>Total Deferred:</b> \$2,015  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$8,060</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input 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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted a new contact time study that had a greater concentration time and would meet the disinfection protocol on March 10, 2010 and obtained approval on April 14, 2010.</p>

Additional ID No(s): WQ0010063003; 2100001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	11-Jan-2010			
	PCW	27-Jan-2010	Screening	20-Jan-2010	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Center
Reg. Ent. Ref. No.	RN101390409
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39027	No. of Violations	1
Docket No.	2010-0104-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

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

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

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

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

Notes: Enhancement recommended for having 15 NOVs for non-similar violations and one Agreed Order without denial language within the last five years.

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

Notes: The City does not meet the culpability criteria.

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

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

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

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 20-Jan-2010

Docket No. 2010-0104-PWS-E

PCW

Respondent City of Center

Policy Revision 2 (September 2002)

Case ID No. 39027

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101390409

Media [Statute] Public Water Supply

Enf. Coordinator Samuel Short

### 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)	0	0%
	Other written NOVs	15	30%
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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 55%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended for having 15 NOVs for non-similar violations and one Agreed Order without denial language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

**Screening Date:** 20-Jan-2010      **Docket No.:** 2010-0104-PWS-E      **PCW**  
**Respondent:** City of Center      *Policy Revision 2 (September 2002)*  
**Case ID No.:** 39027      *PCW Revision October 30, 2009*  
**Reg. Ent. Reference No.:** RN101390409  
**Media [Statute]:** Public Water Supply  
**Enf. Coordinator:** Samuel Short

**Violation Number:** 1  
**Rule Cite(s):** 30 Tex. Admin. Code § 290.111(d)(1)(D) and Tex. Health & Safety Code § 341.0315(c)  
**Violation Description:** Failed to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours. Specifically, a low concentration-time (the product of disinfectant concentration and effective contact time) for more than four consecutive hours was documented for every day in June, July, August, September, October, November, and December 2008 and January, February, March, April, May, and June 2009.

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

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes:** Failure to disinfect the water supply for the appropriate length of time could cause customers of the water supply to be exposed to a significant amount of contaminants which would exceed levels that are protective of human health.

**Adjustment:** \$500

**Violation Events**

Number of Violation Events: 13      598      Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

*mark only one with an x*

**Violation Base Penalty:** \$6,500

Thirteen monthly events are recommended.

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

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

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

**Violation Subtotal:** \$6,500

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

**Estimated EB Amount:** \$5,813      **Violation Final Penalty Total:** \$10,075

**This violation Final Assessed Penalty (adjusted for limits):** \$10,075

## Economic Benefit Worksheet

**Respondent:** City of Center  
**Case ID No.:** 39027  
**Reg. Ent. Reference No.:** RN101390409  
**Media:** Public Water Supply  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	16

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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)	\$1,000	1-Jun-2008	14-Apr-2010	1.87	\$93	n/a	\$93

Notes for DELAYED costs

The estimated cost to develop and implement procedures to ensure that the disinfection protocol requirements are met. Date required is the date the violation began and the final date is the date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$5,200	1-Jun-2008	30-Jun-2009	2.00	\$519	\$5,200	\$5,719

Notes for AVOIDED costs

The estimated avoided costs include the amount to ensure that a proper disinfection protocol is implemented, (\$200 per month) calculated for the months when the violations occurred.

Approx. Cost of Compliance

\$6,200

TOTAL

\$5,813

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600254270 City of Center Classification: AVERAGE Rating: 1.04  
Regulated Entity: RN101390409 CITY OF CENTER Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2100001  
WATER LICENSING LICENSE 2100001  
Location: LOCATED OFF STATE HIGHWAY 7, APPROXIMATELY 15  
MILES SOUTHWEST OF CENTER ON COUNTY ROAD 1211,  
SHELBY COUNTY, TEXAS  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: January 20, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 20, 2005 to January 20, 2010

## TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Samuel Short Phone: (512) 239-5363

### Site Compliance History Components

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

### 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: 11/18/2006 ADMINORDER 2006-0859-PWS-E  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
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5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average.  
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average.  
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average.  
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average.  
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average.

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	02/08/2005	(466694)
2	02/15/2005	(466592)
3	04/20/2005	(373409)
4	04/21/2005	(466717)
5	04/27/2005	(466605)
6	07/08/2005	(466720)
7	07/15/2005	(466613)
8	09/29/2005	(466668)
9	09/30/2005	(466750)
10	01/04/2006	(466676)
11	01/11/2006	(396377)
12	01/12/2006	(466754)
13	05/12/2006	(462720)
14	06/06/2006	(480924)
15	05/18/2007	(652373)
16	08/09/2007	(567143)
17	12/02/2007	(598970)
18	04/25/2008	(638736)
19	09/10/2008	(688265)
20	09/11/2009	(764486)
21	12/08/2009	(784014)
22	12/28/2009	(785161)
23	12/28/2009	(785174)
24	12/28/2009	(785187)
25	12/28/2009	(785220)
26	12/28/2009	(785301)
27	12/28/2009	(785307)
28	12/28/2009	(785311)
29	12/28/2009	(785316)
30	12/28/2009	(785322)
31	12/28/2009	(785330)
32	12/28/2009	(785333)
33	12/28/2009	(785342)
34	01/06/2010	(786870)

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

Date: 02/08/2005 (466694) CN600254270  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual

average.

Date: 02/15/2005 (466592) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(6)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.

Date: 04/20/2005 (373409) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
 Description: Failure to maintain the public water system's operating records organized, and copies kept on file or stored electronically. The operating records must be accessible for review during inspections.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)  
 Description: Failure to implement a cross connection control program.

During the investigation, it was noted that the water system did not have the required backflow prevention assemblies on the water lines to three car washes, about seven dental and medical clinics, two dry cleaners, a hospital, two or three meat processing fac

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(C)  
 Description: Failure to collect daily chlorine residual samples from active service connections which are representative of water throughout the distribution system.

During the investigation, it was noted that the water system was collecting many of the daily chlorine residual samples at the waste treatment plant.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
 Description: Failure to calibrate the flow meters at both SWTPs.

Date: 04/21/2005 (466717) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.060 mg/L for TTHM, based on a running annual average.

Date: 04/27/2005 (466605) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(6)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.

Date: 07/08/2005 (466720) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average.

Date: 07/15/2005 (466613) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(6)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.

Date: 09/29/2005 (466668) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.

Date: 09/30/2005 (466750) CN600254270  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.060 mg/L for TTHM, based on a running annual average.

Date: 01/04/2006 (466675) CN600254270  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average.  
 Date: 01/12/2006 (466754) CN600254270  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average.  
 Date: 05/12/2006 (462720) CN600254270  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)  
 Description: Failure to implement a cross connection control program.  
 During the investigation, it was noted that the water system did not have the required backflow prevention assemblies on the water lines to three car washes, about seven dental and medical clinics, two dry cleaners, a hospital, two or three meat processing fac

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(b)  
 Description: Failure to follow standard procedures for bacteriological sampling / analysis as required by Subchapter F (290.109(c)(2)(B)) of this Chapter.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
 Description: Failure to perform annual calibration on the rate of flow controller (Package plant at Pinkston).

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
 Description: Failure to perform annual tank inspection on the 1.75 MG standpipe.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain water system's facilities and /or equipment.  
 Date: 08/09/2007 (567143) CN600254270  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)  
 Description: Failure to keep a record of the amount of chemicals used each day.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(II)  
 Description: Failure to present copies of annual inspections and test reports of the backflow prevention assemblies: no current annual test reports for 20 out of 30 listed RPBA assemblies in the distribution system.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(B)  
 Description: Failure to verify that gauges used in the testing of backflow prevention assemblies are tested for accuracy annually, in accordance with the required standards.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to maintain a water storage facility - Clearwell #1 (Aiken plant).

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain water system's facilities: rust on pipes in pipe gallery.  
 Date: 09/10/2008 (686265) CN600254270  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
 Description: Failure to provide a flow measuring device to measure the treated water used to backwash the filters (Aiken New Plant).

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
 Description: Failure to provide a flow measuring device to measure the treated water used to backwash the filters (Mill Creek plant).

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)  
 Description: Failure to prevent potential cross connection between a make-up water supply line and a chemical container (Aiken plants).

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)  
 Description: Failure to prevent cross connection between a make-up water supply line and a chemical

		container (Mill Creek plant).		
Self Report?	NO		Classification:	Moderate
Citation:		30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)		
Description:		Failure to prevent potential cross connection between a water supply line and untreated water (Aiken Old plant).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter F 290.121(b)		
Description:		Failure to have a complete monitoring plan (Aiken Plants).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter F 290.121(b)		
Description:		Failure to have a complete monitoring plan (Mill Creek plant).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)		
Description:		Failure to properly identify chemical lines and chemical containers(Mill Creek plant).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:		Failure to properly calibrate laboratory equipment used for compliance testing: no secondary standards for benchtop turbidimeter at the Aiken plants.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:		Failure to properly calibrate laboratory equipment used for compliance testing: no secondary standards for the benchtop turbidimeter at the Mill Creek plant, and no checks were performed when a series of samples were tested.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(s)(1)		
Description:		Failure to perform annual calibration on the rate of flow controllers (Mill Creek plant).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:		Failure to maintain a water system's treatment facility (grime in the flocculation basin).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:		Failure to perform the annual inspections of the water system's storage tanks.		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:		Failure to maintain a water storage tank (Riggs tank).		
Date:	09/10/2009	(764486)	CN600254270	
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:		Failure to provide a flow measuring device to measure the treated water used to backwash the filters (Aiken New Plant).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:		Failure to provide a flow measuring device to measure the treated water used to backwash the filters (Mill Creek plant).		
Self Report?	NO		Classification:	Moderate
Citation:		30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)		
Description:		Failure to prevent potential cross connection between a make-up water supply line and a chemical container (Aiken plants).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)		
Description:		Failure to prevent cross connection between a make-up water supply line and a chemical container (Mill Creek plant).		
Self Report?	NO		Classification:	Moderate
Citation:		30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)		
Description:		Failure to prevent potential cross connection between a water supply line and untreated water (Aiken Old plant).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter F 290.121(b)		
Description:		Failure to have a complete monitoring plan (Aiken Plants).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter F 290.121(b)		
Description:		Failure to have a complete monitoring plan (Mill Creek plant).		
Self Report?	NO		Classification:	Minor
Citation:		30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)		
Description:		Failure to properly identify chemical lines and chemical containers(Mill Creek plant).		

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:	Failure to properly calibrate laboratory equipment used for compliance testing: no secondary standards for benchtop turbidimeter at the Aiken plants.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:	Failure to properly calibrate laboratory equipment used for compliance testing: no secondary standards for the benchtop turbidimeter at the Mill Creek plant, and no checks were performed when a series of samples were tested.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(1)		
Description:	Failure to perform annual calibration on the rate of flow controllers (Mill Creek plant).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain a water system's treatment facility (grime in the flocculation basin).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to perform the annual inspections of the water system's storage tanks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain a water storage tank (Riggs tank).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)		
Description:	Failure to provide a 200 foot restricted zone around raw water intakes at Pinkston Lake.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to repair a leak on the water line for raw water pump #3 (intake Pinkston Lake).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(VI)		
Description:	Failure to obtain approval for the double walled fluoride tank.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 288, SubChapter B 288.20(c)		
Description:	Failure to update the Drought Contingency Plan every five years.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(F)		
Description:	Failure to monitor and record the free ammonia, monochloramine, and total chlorine residuals at the entry point each week, per the exception.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(t)		
Description:	Failure to have an ownership sign at the 1.75 million gallon (MG) Tyson Tank.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(l)		
Description:	Failure to flush all dead-end mains each month.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to update the distribution map.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to conduct interior and exterior tank inspections on the Pressure Tank (Aiken Plant).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(I)(I)		
Description:	Failure to document the amount of chemicals used each day (lime and potassium permanganate).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)		
Description:	Failure to locate the 1.0 MG ground storage tank overflow where it can be inspected.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(4)		
Description:	Failure to properly report disinfection zones on the SWMOR (Old and New Plants).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(1)		
Description:	Failure to provide customer complaint records during the investigation.		

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)  
Description: Failure to properly identify chemical and water lines at the Aiken Old and New Plants.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)  
Description: Failure to provide an appropriate backflow prevention assembly on the alum make-up supply line (Aiken Plant).

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 CENTER  
RN101390409**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0104-PWS-E**

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

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Center ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a public water supply located off State Highway 7, approximately 15 miles southwest of Center on County Road 1211 in Shelby County, Texas (the "Facility") that has approximately 2,810 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
3. The City received notice of the violations alleged in Section II ("Allegations") on or about January 10, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Ten Thousand Seventy-Five Dollars (\$10,075) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Eight Thousand Sixty Dollars (\$8,060) of the administrative penalty and Two Thousand Fifteen Dollars (\$2,015) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon

full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the City submitted a new contact time study that had a greater concentration time and would meet the disinfection protocol on March 10, 2010 and obtained approval on April 14, 2010.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the City is alleged to have failed to meet the requirements of the disinfection protocol used by the public water system for a period longer than four consecutive hours, in violation of 30 TEX. ADMIN. CODE § 290.111(d)(1)(D) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on July 11, 2009. Specifically, a low concentration time (the product of disinfectant concentration and effective contact time) for more than four consecutive hours was documented for every day in June, July, August, September, October, November, and December 2008 and January, February, March, April, May, and June 2009.

## **III. DENIALS**

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

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring

corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Center, Docket No. 2010-0104-PWS-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. 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.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 7/1/2010

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 05-24-10

**Chad D. Nehring**  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Center

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

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