

**Executive Summary – Enforcement Matter – Case No. 41820**

**City of Center**

**RN101390409**

**Docket No. 2011-0951-PWS-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Center, 617 Tenaha Street, Center, Shelby County

**Type of Operation:**

Municipal public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** September 9, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$855

**Amount Deferred for Expedited Settlement:** \$171

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$684

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** \$34

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41820**

**City of Center**

**RN101390409**

**Docket No. 2011-0951-PWS-E**

***Investigation Information***

**Complaint Date(s):** March 8, 2011

**Complaint Information:** Alleged that the water was discolored, gritty, and that replacement of a water line was the cause of the discoloration and white flakes were seen in the water.

**Date(s) of Investigation:** March 31, 2011

**Date(s) of NOE(s):** May 4, 2011

***Violation Information***

1. Failed to maintain complete records of complaints including the date, location and nature of the water quality, pressure, or outage complaint received and the results of any subsequent complaint investigation [30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(iii)].
2. Failed to issue a boil water notification to the customers of the Facility within 24 hours of a water outage using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1) and (2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

a. Within 60 days:

i. Create and begin utilizing a written protocol to fully address all complaints made regarding the Facility or its services. The written protocol shall require full recordation of all complaints including the date, location and nature of the water quality, pressure, or outage complaint received and the results of any subsequent complaint investigation and shall include a record keeping system to ensure that all complaint records are maintained at the Facility for a minimum of two years; and

ii. Incorporate the flowchart identified in 30 TEX. ADMIN. CODE § 290.47(h) into the Facility's plant operations manual and implement the procedures outlined in the flowchart to ensure that all required boil water notices are provided to the customers of the Facility within 24 hours of a low distribution pressure event, water outage, positive *E. coli* or fecal coliform sample, low chlorine residual, elevated finished water turbidity level, or other condition which indicates that the potability of the drinking water has been compromised.

b. Within 75 days, submit written certification demonstrating compliance.

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***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Rebecca Clausewitz, Enforcement Division,  
Enforcement Team 2, MC R-13, (210) 403-4012; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Chad D. Nehring, City Manager, City of Center, 617 Tenaha Street,  
Center, Texas 75935

The Honorable John Windham, Mayor, City of Center, 617 Tenaha Street, Center, Texas  
75935

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|              |                 |            |                  |             |                |  |
|--------------|-----------------|------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 9-May-2011 | <b>Screening</b> | 18-May-2011 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 3-Jun-2011 |                  |             |                |  |

## RESPONDENT/FACILITY INFORMATION

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

## CASE INFORMATION

|  |                     |                              |                    |
|--|---------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 41820               | <b>No. of Violations</b>     | 2                  |
| <b>Docket No.</b>                      | 2011-0951-PWS-E     | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Public Water Supply | <b>Government/Non-Profit</b> | Yes                |
| <b>Multi-Media</b>                     |                     | <b>Enf. Coordinator</b>      | Rebecca Clausewitz |
|  |                     | <b>EC's Team</b>             | Enforcement Team 2 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$50                | <b>Maximum</b>               | \$1,000            |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$510**

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

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

**Compliance History** **61.0%** Enhancement **Subtotals 2, 3, & 7** **\$311**

Notes: Enhancement for two NOVs with same/similar violations, three NOVs with dissimilar violations, one agreed final enforcement order containing a denial of liability, and one agreed final enforcement order without a denial of liability.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$293**  
 Approx. Cost of Compliance **\$372**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$821**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$821**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$855**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$171**

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** **\$684**

**Screening Date** 18-May-2011

**Docket No.** 2011-0951-PWS-E

**PCW**

**Respondent** City of Center

Policy Revision 2 (September 2002)

**Case ID No.** 41820

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101390409

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Rebecca Clausewitz

### Compliance History Worksheet

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

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 2                 | 10%     |
|                               | Other written NOVs   | 3                 | 6%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 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)** 61%

>> **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**

Enhancement for two NOVs with same/similar violations, three NOVs with dissimilar violations, one agreed final enforcement order containing a denial of liability, and one agreed final enforcement order without a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 61%

Screening Date 18-May-2011

Docket No. 2011-0951-PWS-E

PCW

Respondent City of Center

Policy Revision 2 (September 2002)

Case ID No. 41820

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101390409

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(A)(iii)

Violation Description Failed to maintain complete records of complaints including the date, location and nature of the water quality, pressure, or outage complaint received and the results of any subsequent complaint investigation. Specifically, on the date of the investigation, the Respondent did not provide any records concerning the results of investigations conducted as a result of the complaints.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 0%      |
| Potential |       |          |       |         |

>> Programmatic Matrix

| Falsification | Harm  |          |       | Percent |
|---------------|-------|----------|-------|---------|
|               | Major | Moderate | Minor |         |
|               |       |          | X     | 1%      |

Matrix Notes: Less than 30% of the record keeping requirements were not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 Number of violation days 48

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | weekly       |   |
|                         | monthly      |   |
|                         | quarterly    |   |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event | X |

Violation Base Penalty \$10

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 \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$16

This violation Final Assessed Penalty (adjusted for limits) \$50

## Economic Benefit Worksheet

**Respondent** City of Center  
**Case ID No.** 41820  
**Reg. Ent. Reference No.** RN101390409  
**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    | \$82 | 31-Mar-2011 | 31-Jan-2012 | 0.84 | \$3 | n/a | \$3 |
| 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 estimated amount for the Respondent to develop and implement a protocol for addressing customer complaints and maintaining complete complaint records, 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

\$82

**TOTAL**

\$3

Screening Date 18-May-2011

Docket No. 2011-0951-PWS-E

PCW

Respondent City of Center

Policy Revision 2 (September 2002)

Case ID No. 41820

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101390409

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.46(q)(1) and (2)

Violation Description

Failed to issue a boil water notification to the customers of the Facility within 24 hours of a water outage using the prescribed notification format as specified in 30 Tex. Admin. Code § 290.47(e). Specifically, it was documented that the Respondent did not adhere to the special precautions set forth in 30 Tex. Admin. Code § 290.47(h) and issue a boil water notification after a water outage due to replacement of a water line.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | x     |          |       |

Percent 50%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Failure to issue a boil water notice could prevent customers of the Facility from taking appropriate measures to prevent exposure to significant amounts of contaminants, which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 1

2 Number of violation days

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

Violation Base Penalty \$500

One single event is recommended.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$290

Violation Final Penalty Total \$805

This violation Final Assessed Penalty (adjusted for limits) \$805

# Economic Benefit Worksheet

**Respondent** City of Center  
**Case ID No.** 41820  
**Req. Ent. Reference No.** RN101390409  
**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                |  |  |  | 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   |
| <b>ONE-TIME avoided costs [3]</b> | \$290 | 15-Feb-2011 | 17-Feb-2011 | 0.00 | \$0 | \$290 | \$290 |
| Other (as needed)                 |       |             |             | 0.00 | \$0 | \$0   | \$0   |

Notes for AVOIDED costs

The avoided costs include the estimated amount to issue a boil water notice to the affected customers (\$120), conduct bacteriological sampling of the water in the repaired lines (\$50), and the amount to rescind the boil water notice once the water was shown to be coliform negative (\$120), calculated from the date that repairs were begun to the date that service was restored after line repairs were completed.

Approx. Cost of Compliance \$290

**TOTAL** \$290

# Compliance History

Customer/Respondent/Owner-Operator: CN600254270 City of Center Classification: AVERAGE Rating: 1.11  
Regulated Entity: RN101390409 CITY OF CENTER Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2100001  
WATER LICENSING LICENSE 2100001  
Location: 617 Tenaha Street, Center, Shelby County, Texas  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: May 23, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 23, 2006 to May 23, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rebecca Clausewitz Phone: (210) 403-4012

## Site Compliance History Components

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

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 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)  
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)  
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.

Effective Date: 08/30/2010

ADMINORDER 2010-0104-PWS-E

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(1)(D)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: 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.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

|    |            |          |
|----|------------|----------|
| 1  | 06/06/2006 | (480924) |
| 2  | 08/09/2007 | (567143) |
| 3  | 12/02/2007 | (598970) |
| 4  | 04/25/2008 | (638736) |
| 5  | 05/18/2007 | (652373) |
| 6  | 09/10/2008 | (686265) |
| 7  | 09/11/2009 | (764486) |
| 8  | 12/08/2009 | (784014) |
| 9  | 12/28/2009 | (785161) |
| 10 | 12/28/2009 | (785174) |
| 11 | 12/28/2009 | (785187) |
| 12 | 12/28/2009 | (785220) |
| 13 | 12/28/2009 | (785301) |
| 14 | 12/28/2009 | (785307) |
| 15 | 12/28/2009 | (785311) |
| 16 | 12/28/2009 | (785316) |
| 17 | 12/28/2009 | (785322) |
| 18 | 12/28/2009 | (785330) |
| 19 | 12/28/2009 | (785333) |
| 20 | 12/28/2009 | (785342) |
| 21 | 01/06/2010 | (786870) |
| 22 | 08/31/2010 | (841895) |

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

Date: 05/18/2007 (652373) CN600254270  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: HAA5

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 the 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)(l)  
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).

Date: 11/16/2009 (784014) CN600254270  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(1)(D)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: 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.

- 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. 2011-0951-PWS-E**

**I. JURISDICTION AND STIPULATIONS**

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

1. The Respondent owns and operates a municipal public water supply at 617 Tenaha Street in Center, Shelby County, Texas (the "Facility") that has approximately 2,641 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 9, 2011.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Eight Hundred Fifty-Five Dollars (\$855) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Eighty-Four Dollars (\$684) of the administrative penalty and One Hundred Seventy-One Dollars (\$171) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain complete records of complaints including the date, location and nature of the water quality, pressure, or outage complaint received and the results of any subsequent complaint investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(iii), as documented during an investigation conducted on March 31, 2011.
2. Failed to issue a boil water notification to the customers of the Facility within 24 hours of a water outage using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1) and (2), as documented during an investigation conducted on March 31, 2011.

## **III. DENIALS**

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

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Center, Docket No. 2011-0951-PWS-E" to:

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

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

a. Within 60 days after the effective date of this Agreed Order:

i. Create and begin utilizing a written protocol to fully address all complaints made regarding the Facility or its services. The written protocol shall require full recordation of all complaints including the date, location and nature of the water quality, pressure, or outage complaint received and the results of any subsequent complaint investigation and shall include a record keeping system to ensure that all complaint records are maintained at the Facility for a minimum of two years, in accordance with 30 TEX. ADMIN. CODE § 290.46; and

ii. Incorporate the flowchart identified in 30 TEX. ADMIN. CODE § 290.47(h) into the Facility's plant operations manual and implement the procedures outlined in the flowchart to ensure that all required boil water notices are provided to the customers of the Facility within 24 hours of a low distribution pressure event, water outage, positive *E. coli* or fecal coliform sample, low chlorine residual, elevated finished water turbidity level, or other condition which indicates that the potability of the drinking water has been compromised, in accordance with 30 TEX. ADMIN. CODE § 290.46.

b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



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

9/12/11

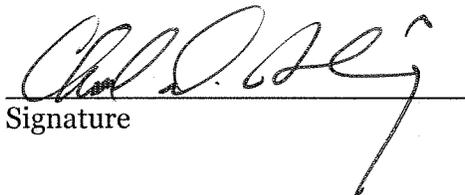
\_\_\_\_\_  
Date

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

07-26-2011

\_\_\_\_\_  
Date

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

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

**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.