

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1451-MLM-E **TCEQ ID:** RN101454726 **CASE NO.:** 40342  
**RESPONDENT NAME:** PANOLA-BETHANY WATER SUPPLY CORPORATION

<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 checked="" 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 checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Panola Bethany WSC, located on United States Highway 79, between Panola and Bethany, Panola 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 January 17, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Katy Schumann, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2602; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. James A. Youngblood, President, PANOLA-BETHANY WATER SUPPLY CORPORATION, P.O. Box 279, Bethany, Louisiana 71007  <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 19, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 23, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>1) Failed to provide a concrete sealing block that extends at least three feet from the exterior well casing in all directions, is at least six inches thick and is sloped to drain away from the easement at not less than 0.25 inches per foot [30 TEX. ADMIN. CODE § 290.41(c)(3)(J)].</p> <p>2) Failed to provide Facility records to Commission personnel at the time of an investigation [30 TEX. ADMIN. CODE §§ 290.46(f)(2), (f)(3)(A)(vi), (f)(3)(B)(ii), and (f)(3)(D)(vii)].</p> <p>3) Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m) and (m)(2)].</p> <p>4) Failed to calibrate the flow measuring devices once every three years [30 TEX. ADMIN. CODE § 290.46(s)(1)].</p> <p>5) Failed to post a legible sign at each production, treatment and storage facility that contains the name of the facility and an emergency telephone number where a responsible official can be contacted [30 TEX. ADMIN. CODE § 290.46(t)].</p> <p>6) Failed to obtain a discharge permit</p>	<p><b>Total Assessed:</b> \$3,014</p> <p><b>Total Deferred:</b> \$602  <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> \$2,412</p> <p><b>Compliance History Classification:</b>                      Person/CN – N/A                      Site/RN – N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit for review and begin maintaining the following records: water system maintenance records, copies of consumer confidence reports, copies of public notices issued for boil water notifications or chemical violations and copies of the sanitary control easements for the Facility's wells;</p> <p>ii. Post a legible sign at the sites of Well Nos. 3 and 4 that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted; and</p> <p>iii. Submit an administratively complete permit application for the discharge of wastewater generated from the water treatment process.</p> <p>Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning its permit application within 30 days after the date of such requests or before any other deadline specified in writing.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Calibrate the well meters for Well Nos. 1, 2, 3, 4 and 5; and</p> <p>ii. Provide the well with a concrete sealing block that extends at least three feet from the exterior well casing in all directions.</p> <p>d. Within 75 days after the effective</p>

prior to any discharge of wastewater [30 TEX. ADMIN. CODE § 290.42(i) and TEX. WATER CODE ch. 26.121(a)].		date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c;  e. Within 90 days after the effective date of this Agreed Order, repair the barbed wire at Well No. 3 and Plant No. 1, and provide a new protective coating for the pressure tank and pressure filters at Plant No. 2; and  f. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e and certify that either authorization to discharge wastewater generated from the water treatment processes has been obtained or that all discharge of wastewater has ceased until such time that appropriate authorization is obtained.
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Additional ID No(s): PWS 1830011





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	30-Aug-2010	<b>Screening</b>	2-Sep-2010	<b>EPA Due</b>	
	<b>PCW</b>	20-Sep-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	PANOLA-BETHANY WATER SUPPLY CORPORATION
<b>Reg. Ent. Ref. No.</b>	RN101454726
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40342	<b>No. of Violations</b>	5
<b>Docket No.</b>	2010-1451-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Katy Schumann
		<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** **\$710**

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

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

**Compliance History** **12.0%** Enhancement **Subtotals 2, 3, & 7** **\$85**

Notes: Enhancement for two same/similar NOV's and 1 dissimilar NOV.

**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 \$318  
Approx. Cost of Compliance \$1,130  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$795**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$795**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$834**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$166**

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** **\$668**

Screening Date 2-Sep-2010

Docket No. 2010-1451-MLM-E

PCW

Respondent PANOLA-BETHANY WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 40342

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101454726

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

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

**Adjustment Percentage (Subtotal 2)** 12%

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

N/A

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

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

N/A

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

#### >> Compliance History Summary

Compliance History Notes

Enhancement for two same/similar NOVs and 1 dissimilar NOV.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 12%

Screening Date 2-Sep-2010

Docket No. 2010-1451-MLM-E

PCW

Respondent PANOLA-BETHANY WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 40342

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101454726

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(J)

Violation Description Failed to provide a concrete sealing block that extends at least three feet from the exterior well casing in all directions, is at least six inches thick and is sloped to drain away from the easement at not less than 0.25 inches per foot. Specifically, at the time of the record review, the sealing block for Well No. 2 extended approximately 2 feet from the well head.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (10%).

>> Programmatic Matrix

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

Matrix Notes Failure to provide an adequate concrete sealing block around the well head may not adequately protect the well from flooding allowing pollutants to enter the source water thereby exposing consumers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 45

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

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the record review, July 19, 2010, to the date of screening, September 2, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$49

Violation Final Penalty Total \$112

This violation Final Assessed Penalty (adjusted for limits) \$112

# Economic Benefit Worksheet

**Respondent** PANOLA-BETHANY WATER SUPPLY CORPORATION  
**Case ID No.** 40342  
**Reg. Ent. Reference No.** RN101454726  
**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
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$300	29-Jan-2009	30-May-2011	2.33	\$2	\$47	\$49
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide an adequate concrete sealing block around the well, calculated from the date of the initial 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

\$300

**TOTAL**

\$49

Screening Date 2-Sep-2010

Docket No. 2010-1451-MLM-E

PCW

Respondent PANOLA-BETHANY WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 40342

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101454726

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.46(f)(2), (f)(3)(A)(vi), (f)(3)(B)(ii) and (f)(3)(D)(vii)

Violation Description

Failed to provide Facility records to Commission personnel at the time of an investigation. Specifically, at the time of the record review, it was documented that during an investigation conducted on January 29, 2009, the Respondent failed to provide the following documents: Facility maintenance records, copies of consumer confidence reports, copies of issued public notices for boil water notifications or chemical violations and copies of the sanitary control easements for the Facility's wells.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

45 Number of violation days

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 \$27

Violation Final Penalty Total \$11

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

# Economic Benefit Worksheet

**Respondent** PANOLA-BETHANY WATER SUPPLY CORPORATION  
**Case ID No.** 40342  
**Reg. Ent. Reference No.** RN101454726  
**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)	\$45	29-Jan-2009	30-Apr-2011	2.25	\$0	\$7	\$7
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$180	29-Jan-2009	30-Apr-2011	2.25	\$20	n/a	\$20
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 other delayed costs include the estimated amount to compile and begin maintaining a record keeping system for the operating records, calculated from the date of the initial investigation documenting the violation to the estimated date of compliance. The record keeping system delayed cost includes the estimated amount to compile and begin maintaining a record keeping system for the following records: Facility maintenance records, copies of consumer confidence reports, public notices issued for Boil Water Notifications or Chemical Violations and copies of the sanitary control easements for the Facility's wells, calculated from the date of the investigation in which the violation was initially documented 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

\$225

**TOTAL**

\$27

Screening Date 2-Sep-2010

Docket No. 2010-1451-MLM-E

PCW

Respondent PANOLA-BETHANY WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 40342

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101454726

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 3

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

Violation Description Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the investigation, the barbed wire at Well No. 3 and Plant No. 1 was in need of repair and the pressure tank and pressure filters at Plant No. 2 were in need of a new protective coating.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to maintain the good working condition and general appearance of the Facility's equipment could expose the customers to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3 45 Number of violation days

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

Violation Base Penalty \$150

Three single events are recommended (one for each well or plant site).

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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$168

This violation Final Assessed Penalty (adjusted for limits) \$168

## Economic Benefit Worksheet

**Respondent** PANOLA-BETHANY WATER SUPPLY CORPORATION  
**Case ID No.** 40342  
**Reg. Ent. Reference No.** RN101454726  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				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)	\$250	29-Jan-2009	30-Sep-2011	2.67	\$33	n/a	\$33

Notes for DELAYED costs

The delayed cost includes the amount to repair the barbed wire and recoat the pressure tank and pressure filters, calculated from the date of the initial 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

\$250

**TOTAL**

\$33

Screening Date 2-Sep-2010

Docket No. 2010-1451-MLM-E

PCW

Respondent PANOLA-BETHANY WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 40342

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101454726

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 4

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

Violation Description

Failed to calibrate the flow measuring devices once every three years. Specifically, at the time of the record review, it was documented that the flow meters for Well Nos. 1, 2, 3, 4 and 5 were not being calibrated once every three years.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have the well meters properly calibrated could result in inaccurate water usage and production data, which could expose customers to an insignificant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 5

45 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

Five single events are recommended (one per meter).

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$185

Violation Final Penalty Total \$280

This violation Final Assessed Penalty (adjusted for limits) \$280

## Economic Benefit Worksheet

**Respondent** PANOLA-BETHANY WATER SUPPLY CORPORATION  
**Case ID No.** 40342  
**Reg. Ent. Reference No.** RN101454726  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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>	\$155	19-Jul-2007	19-Jul-2010	3.92	\$30	\$155	\$185
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the well meters, calculated for the three years prior to the record review date.

Approx. Cost of Compliance

\$155

**TOTAL**

\$185

Screening Date 2-Sep-2010

Docket No. 2010-1451-MLM-E

PCW

Respondent PANOLA-BETHANY WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 40342

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101454726

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(t)

Violation Description

Failed to post a legible sign at each production, treatment and storage Facility that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted. Specifically, at the time of the record review, there were no signs posted at the sites of Well Nos. 3 and 4.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 45 Number of violation days

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

Violation Base Penalty \$200

Two single events are recommended (one for each well site).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$224

This violation Final Assessed Penalty (adjusted for limits) \$224

# Economic Benefit Worksheet

**Respondent** PANOLA-BETHANY WATER SUPPLY CORPORATION  
**Case ID No.** 40342  
**Reg. Ent. Reference No.** RN101454726  
**Media** Public Water Supply  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	29-Jan-2009	30-Apr-2011	2.25	\$22	n/a	\$22
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 to create and post a sign at the sites of Well Nos. 3 and 4, calculated from the initial investigation date to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

**TOTAL**

\$22



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	30-Aug-2010	<b>Screening</b>	2-Sep-2010	<b>EPA Due</b>	
	<b>PCW</b>	27-Sep-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Panola-Bethany Water Supply Corporation
<b>Reg. Ent. Ref. No.</b>	RN101454726
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40342	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1451-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Public Water Supply	<b>Enf. Coordinator</b>	Katy Schumann
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	9.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$180
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Notes: Enhancement for one same/similar NOV and 2 dissimilar NOVs.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$39
Approx. Cost of Compliance	\$350

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,180
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** \$2,180

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,180
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$436
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$1,744
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**Screening Date** 2-Sep-2010

**Docket No.** 2010-1451-MLM-E

**PCW**

**Respondent** Panola-Bethany Water Supply Corporation

*Policy Revision 2 (September 2002)*

**Case ID No.** 40342

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101454726

**Media [Statute]** Water Quality

**Enf. Coordinator** Katy Schumann

**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> )	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

*Please Enter Yes or No*

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 9%

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

N/A

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

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

N/A

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one same/similar NOV and 2 dissimilar NOVs.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 9%

Screening Date 2-Sep-2010

Docket No. 2010-1451-MLM-E

PCW

Respondent Panola-Bethany Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 40342

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101454726

Media [Statute] Water Quality

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.42(i) and Tex. Water Code § 26.121(a)

Violation Description Failed to obtain a permit from the Commission prior to any discharge of wastewater. Specifically, at the time of the record review, it was documented that a review of the Facility's records revealed that the Facility was discharging its filter waste from the backwash filters without a permit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 35 Number of violation days

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

Violation Base Penalty \$2,000

Two monthly events are recommended from the date of the record review, July 19, 2010, to the date of screening, September 2, 2010.

Good Faith Efforts to Comply

Table for Good Faith Efforts: 0.0% Reduction, Before NOV, NOV to EDPRP/Settlement Offer, Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$39

Violation Final Penalty Total \$2,180

This violation Final Assessed Penalty (adjusted for limits) \$2,180

# Economic Benefit Worksheet

**Respondent** Panola-Bethany Water Supply Corporation

**Case ID No.** 40342

**Reg. Ent. Reference No.** RN101454726

**Media** Water Quality

**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$350	29-Jan-2009	30-Apr-2011	2.25	\$39	n/a	\$39
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated cost to obtain a discharge permit to discharge the Facility's filter waste from its backwashing activities, calculated from the date of the initial 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**

\$350

**TOTAL**

\$39

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600651293 Panola-Bethany Water Supply Corporation Classification: Rating:  
Regulated Entity: RN101454726 PANOLA BETHANY WSC Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1830011  
Location: LOCATED ON US 79 BETWEEN PANOLA AND BETHANY IN PANOLA COUNTY, TEXAS  
TCEQ Region: REGION 05 - TYLER  
Date Compliance History Prepared: August 31, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 31, 2005 to August 31, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Katy Schumann Phone: (512) 239 - 2602

## 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.  
N/A
- 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 03/12/2009 (736076)  
2 08/23/2010 (841879)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 03/13/2009 (736076) CN600651293  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)  
Description: Failure to maintain a working scale in the plant #1 gas chlorination room.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain screen on the well #3 vent  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)  
Description: Failure to notify the executive director before adding Tripolyphosphate in the water system's treatment process.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)  
Description: Failure to provide an adequate sealing block for well #2.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(i)  
Description: Failure to obtain a waste water discharge permit for backwashing filters.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
Description: Failure to make all records available during the investigation.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to perform routine maintenance on all the water system's infrastructure.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: Failure to calibrate well flow meters at least once every three years.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)  
Description: Failure to post emergency contact signs at all well sites.

Date: 06/04/2010 (803893) CN600651293  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(1)  
Description: Failure to have records accessible for review during inspections.

Date: 07/28/2010 (841354) CN600651293  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vi)  
Description: Failure to document in the water system maintenance log that AWWA disinfection standards were followed during a line repair.

- 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  
PANOLA-BETHANY WATER  
SUPPLY CORPORATION  
RN101454726**

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

**AGREED ORDER  
DOCKET NO. 2010-1451-MLM-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 PANOLA-BETHANY WATER SUPPLY CORPORATION ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 26. 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 public water supply located on United States Highway 79, between Panola and Bethany in Panola County, Texas (the "Facility") that has approximately 541 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch 26.
3. 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.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 28, 2010.

5. 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.
6. An administrative penalty in the amount of Three Thousand Fourteen Dollars (\$3,014) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Four Hundred Twelve Dollars (\$2,412) of the administrative penalty and Six Hundred Two Dollars (\$602) 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.
7. 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.
8. 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.
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 Respondent 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 Respondent is alleged to have:

1. Failed to provide a concrete sealing block that extends at least three feet from the exterior well casing in all directions, is at least six inches thick and is sloped to drain away from the easement at not less than 0.25 inches per foot, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(J), as documented during a record review conducted on July 19, 2010.
2. Failed to provide Facility records to Commission personnel at time of an investigation, in violation of 30 TEX. ADMIN. CODE §§ 290.46(f)(2), (f)(3)(A)(vi), (f)(3)(B)(ii), and (f)(3)(D)(vii), as documented during a record review conducted on July 19, 2010.
3. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30

TEX. ADMIN. CODE § 290.46(m) and (m)(2), as documented during a record review conducted on July 19, 2010.

4. Failed to calibrate the flow measuring devices once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1), as documented during a record review conducted on July 19, 2010.
5. Failed to post a legible sign at each production, treatment and storage facility that contains the name of the facility and an emergency telephone number where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t), as documented during a record review conducted on July 19, 2010.
6. Failed to obtain a discharge permit prior to any discharge of wastewater, in violation of 30 TEX. ADMIN. CODE § 290.42(i) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on July 19, 2010.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 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: PANOLA-BETHANY WATER SUPPLY CORPORATION, Docket No. 2010-1451-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 30 days after the effective date of this Agreed Order:
    - i. Submit for review and begin maintaining the following records: water system maintenance records, copies of consumer confidence reports, copies of public notices issued for boil water notifications or chemical violations and copies of the sanitary control easements for the Facility's wells, in accordance with 30 TEX. ADMIN. CODE § 290.46;

- ii. Post a legible sign at the sites of Well Nos. 3 and 4 that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
- iii. Submit an administratively complete permit application for the discharge of wastewater generated from the water treatment process to:

Wastewater Permits Section  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning its permit application within 30 days after the date of such requests or before any other deadline specified in writing.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 60 days after the effective date of this Agreed Order:
  - i. Calibrate the well meters for Well Nos. 1, 2, 3, 4 and 5, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
  - ii. Provide the well with a concrete sealing block that extends at least three feet from the exterior well casing in all directions, in accordance with TEX. ADMIN. CODE § 290.41.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 90 days after the effective date of this Agreed Order, repair the barbed wire at Well No. 3 and Plant No. 1, and provide a new protective coating for the pressure tank and pressure filters at Plant No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
- f. Within 105 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.e. and certify that either authorization to discharge wastewater generated from the water treatment processes has been obtained or that all discharge of wastewater has ceased until such time that appropriate

authorization is obtained. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

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. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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.

6. 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.
7. 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.
8. 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.

PANOLA-BETHANY WATER SUPPLY CORPORATION  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Joel S. Rubin  
For the Executive Director

12/21/2010  
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.

James A. Youngblood  
Signature

12-8-10  
Date

James A. Youngblood  
Name (Printed or typed)

President  
Title

Authorized Representative of  
PANOLA-BETHANY WATER SUPPLY CORPORATION

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.