

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1601-PWS-E **TCEQ ID:** RN101409928 **CASE NO.:** 40467
RESPONDENT NAME: City of Ballinger

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Ballinger, 318 County Road 288, Runnels County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on August 30, 2010, alleging odors from the water. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 17, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Katy Schumann, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2602; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Joe Selby, Mayor, City of Ballinger, 318 County Road 288, Ballinger, Texas 76821 Mr. Tommy New, City Manager, City of Ballinger, 318 County Road 288, Ballinger, Texas 76821 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 30, 2010</p> <p>Date of Investigation Relating to this Case: September 2, 2010</p> <p>Date of NOV/NOE Relating to this Case: September 16, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>Failed to operate the disinfection equipment to maintain a minimum disinfectant residual of 0.5 milligrams per liter ("mg/L") total chlorine throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4)].</p>	<p>Total Assessed: \$343</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$343</p> <p>Compliance History Classification: Person/CN – N/A Site/RN – N/A</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on September 2, 2010, the total chlorine residual was measured to be 1.6 mg/L after flushing the lines.</p>

Additional ID No(s): 2000001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Sep-2010	Screening	27-Sep-2010	EPA Due	
	PCW	27-Sep-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Ballinger		
Reg. Ent. Ref. No.	RN101409928		
Facility/Site Region	3-Abilene	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40467	No. of Violations	1
Docket No.	2010-1601-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Katy Schumann
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes Enhancement for three NOV's with same/similar violations, 11 NOV's with dissimilar violations and one enforcement order without a denial of liability.

Culpability Enhancement **Subtotal 4**

Notes The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 27-Sep-2010

Docket No. 2010-1601-PWS-E

PCW

Respondent City of Ballinger

Policy Revision 2 (September 2002)

Case ID No. 40467

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409928

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>)	3	15%
	Other written NOVs	11	22%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

>> 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 three NOVs with same/similar violations, 11 NOVs with dissimilar violations and one enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 62%

Screening Date 27-Sep-2010

Docket No. 2010-1601-PWS-E

PCW

Respondent City of Ballinger

Policy Revision 2 (September 2002)

Case ID No. 40467

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409928

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(4)

Violation Description Failed to operate the disinfection equipment to maintain a minimum disinfectant residual of 0.5 milligrams per liter ("mg/L") total chlorine throughout the distribution system at all times. Specifically, at the time of the investigation, a disinfectant residual reading taken at the fire hydrant located at 2030 Highway 67 measured 0.34 mg/L total chlorine.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%). Includes Matrix Notes: Failure to maintain an adequate disinfectant residual throughout the distribution system at all times could expose consumers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 25

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

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$62

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

Notes: The Respondent achieved compliance on September 2, 2010.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$200

Violation Final Penalty Total \$343

This violation Final Assessed Penalty (adjusted for limits) \$343

Economic Benefit Worksheet

Respondent City of Ballinger
Case ID No. 40467
Reg. Ent. Reference No. RN101409928
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$200	2-Sep-2010	2-Sep-2010	0.00	\$0	\$200	\$200

Notes for AVOIDED costs

The avoided cost includes the amount necessary for additional maintenance, and oversight to ensure the Facility is adequately maintaining the appropriate chlorine residual. The date required is the date of the investigation. The final date is the actual date of compliance.

Approx. Cost of Compliance

\$200

TOTAL

\$200

Compliance History Report

Customer/Respondent/Owner-Operator: CN600253405 City of Ballinger Classification: Rating:
Regulated Entity: RN101409928 CITY OF BALLINGER Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2000001
WATER LICENSING LICENSE 2000001
Location: 318 COUNTY ROAD 288, RUNNELS COUNTY, TEXAS
TCEQ Region: REGION 03 - ABILENE
Date Compliance History Prepared: September 27, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 27, 2005 to September 27, 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.

Effective Date: 03/05/2007

ADMINORDER 2006-1102-PWS-E

Classification: Moderate

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

Description: The City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average for TTHM was 0.109 mg/L for the third quarter of 2005.

Classification: Moderate

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

Description: The City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average for TTHM was 0.193 mg/L for the fourth quarter of 2005.

Classification: Moderate

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

Description: The City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average for TTHM was 0.226 mg/L for the first quarter of 2006.

- 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	10/20/2005	(486088)
2	12/16/2005	(436376)
3	02/24/2006	(487562)
4	04/19/2006	(487564)
5	06/30/2006	(484266)

6 07/27/2006 (488456)
 7 09/26/2006 (514075)
 8 05/18/2007 (652358)
 9 07/09/2007 (565840)
 10 08/10/2007 (652731)
 11 12/11/2007 (653165)
 12 02/08/2008 (652190)
 13 11/20/2008 (706209)

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

Date: 10/20/2005 (486088) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: The City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average for TTHM was 0.109 mg/L for the third quarter of 2005.

Date: 12/16/2005 (436376) CN600253405
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
 Description: FAILURE TO COMPLETE CUSTOMER SERVICE INSPECTIONS AT NEW RESIDENCES.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)
 Description: FAILURE TO PROVIDE FENCING AROUND RAW WATER TANK AT SURFACE PLANT.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(2)(A)
 Description: FAILURE TO PROVIDE ONLINE CHLORINE ANALYZER AT POINT OF ENTRY TO DISTRIBUTION SYSTEM.

Date: 02/24/2006 (487562) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: The City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average for TTHM was 0.193 mg/L for the fourth quarter of 2005.

Date: 04/19/2006 (487564) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: The City did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average. Specifically, the running annual average for TTHM was 0.226 mg/L for the first quarter of 2006.

Date: 05/24/2006 (466393) CN600253405
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
 Description: FAILURE TO FLUSH ADEQUATELY.

Date: 06/26/2006 (484266) CN600253405
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
 Description: FAILURE TO FLUSH ADEQUATELY.

Date: 05/18/2007 (652358) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: TOTAL TRIHALOMETHANES

Date: 08/10/2007 (652731) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: TOTAL TRIHALOMETHANES

Date: 10/15/2007 (595017) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
 Description: Failure to maintain a chloramine residual of 0.5 mg/L (measured as total chlorine) for those systems that feed ammonia.

Date: 12/11/2007 (653165) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: TOTAL TRIHALOMETHANES

Date: 02/08/2008 (652190) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: TOTAL TRIHALOMETHANES

Date: 03/28/2008 (639721) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
 Description: Failure to maintain a minimum pressure of 35 psi in the distribution system.

Date: 11/21/2008 (706209) CN600253405
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)
 Description: Failure to label all chemical feed lines, influent and waste lines.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain the grounds around the 0.250 MG elevated storage tank.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to maintain the fence at the 0.250 MG elevated storage tank in intruder resistant condition.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
 Description: Failure to maintain a chloramine residual (measured as total Chlorine) of 0.5 mg/L at the East sample site.

Date: 09/10/2009 (775274) CN600253405
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
 Description: Failure to maintain a chloramine residual of 0.5 mg/L (measured as total chlorine).

- 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 BALLINGER
RN101409928**

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

**AGREED ORDER
DOCKET NO. 2010-1601-PWS-E**

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 Ballinger (“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 presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 318 County Road 288 in Runnels County, Texas (the “Facility”) that has approximately 2,238 service connections and 2 interconnections that serve approximately 560 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on September 2, 2010, TCEQ staff documented that the Respondent did not operate the disinfection equipment to maintain a minimum disinfectant residual of 0.5 milligrams per liter (“mg/L”) total chlorine throughout the distribution system at all times. Specifically, at the time of the investigation, a disinfectant residual reading taken at the fire hydrant located at 2030 Highway 67 measured 0.34 mg/L total chlorine.
3. The Respondent received notice of the violations on September 21, 2010.
4. The Executive Director recognizes that on September 2, 2010, the total chlorine residual was measured to be 1.6 mg/L after flushing the lines.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to operate the disinfection equipment to maintain a minimum disinfectant residual of 0.5 mg/L total chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’s jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Three Hundred Forty-Three Dollars (\$343) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Three Hundred Forty-Three Dollar (\$343) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Three Hundred Forty-Three Dollars (\$343) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent’s compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty

payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Ballinger, Docket No. 2010-1601-PWS-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the 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.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
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. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. ...
For the Executive Director

Date 1/10/2011

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

I understand that by entering into this Agreed Order, the City of Ballinger waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Tommy New
Signature

Nov. 2, 2010
Date

Tommy New
Name (Printed or typed)
Authorized Representative of the
City of Ballinger

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 III, Paragraph 1 of this Agreed Order.