

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2010-1681-PWS-E **TCEQ ID:** RN101419133 **CASE NO.:** 40537  
**RESPONDENT NAME:** City of Beeville

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 166o AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Beeville, 400 North Washington Street, Beeville, Bee 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> A complaint was received on July 25, 2010, alleging the water quality was poor, tea colored, and with clogs in the reverse osmosis filtration system. A secondary complaint was received on August 4, 2010 alleging the water had a yellow-gold color and sewage odor. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> Two complaints were received, but the complainants have not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 21, 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. Kelly Wisian, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2570; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Jimmy Martinez, Mayor, City of Beeville, 400 North Washington Street, Beeville, Texas 78102  Mr. Tom Ginter, City Manager, City of Beeville, 400 North Washington Street, Beeville, Texas 78102  <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 checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> July 25, 2010 and August 4, 2010</p> <p><b>Date of Investigation Relating to this Case:</b> August 4 through August 24, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 28, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WATER</b></p> <p>Failed to operate the disinfection equipment to continuously maintain a disinfectant residual of 0.5 milligrams per liter ("mg/L") of chloramine throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4)].</p>	<p><b>Total Assessed:</b> \$1,180</p> <p><b>Total Deferred:</b> \$0  <input 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> \$1,180</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN -</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b></p> <p>The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that as of August 24, 2010, the Respondent has continuously maintained adequate disinfectant residuals throughout the distribution system.</p>

Additional ID No(s): PWS 0130001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	27-Sep-2010	<b>Screening</b>	7-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	7-Oct-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Beeville
<b>Reg. Ent. Ref. No.</b>	RN101419133
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40537	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1681-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Kelly Wisian
		<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**

### 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, four NOV's with dissimilar violations, and one final agreed order containing 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 indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

Screening Date 7-Oct-2010

Docket No. 2010-1681-PWS-E

PCW

Respondent City of Beeville

Policy Revision 2 (September 2002)

Case ID No. 40537

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101419133

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

### 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	4	8%
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	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)** 43%

#### >> 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 three NOVs with same/similar violations, four NOVs with dissimilar violations, and one final agreed order containing a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 43%

Screening Date 7-Oct-2010

Docket No. 2010-1681-PWS-E

PCW

Respondent City of Beeville

Policy Revision 2 (September 2002)

Case ID No. 40537

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101419133

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

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 continuously maintain a disinfectant residual of 0.5 milligrams per liter ("mg/L") of chloramine throughout the distribution system at all times. Specifically, the attached tables indicate the dates and locations that field tests were conducted to measure the disinfectant residuals.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes Failure to maintain the proper levels of disinfection could result in the delivery of a significant amount of contaminated water to the public which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 4 Number of violation days 21

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

Four single events are recommended (one for each date in which a low disinfectant residual was recorded).

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent achieved compliance on August 24, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$200

Violation Final Penalty Total \$1,180

This violation Final Assessed Penalty (adjusted for limits) \$1,180

# Economic Benefit Worksheet

**Respondent** City of Beeville  
**Case ID No.** 40537  
**Reg. Ent. Reference No.** RN101419133  
**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]	\$200	4-Aug-2010	24-Aug-2010	0.00	\$0	\$200	\$200
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount for additional maintenance, oversight and an increase in chlorine dosage that could have avoided or prevented the low disinfectant residual levels, calculated from the first recorded occurrence to the date compliance was achieved.

Approx. Cost of Compliance

\$200

**TOTAL**

\$200

## City of Beeville

Docket No. 2010-1681-PWS-E  
Enforcement Case No. 40537  
Public Water Supply ID No. 0130001

<b>Disinfectant Residuals for August 4, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
1308 Fannin Street	0.02 mg/L
Minnesota Street and Highway 59	0.36 mg/L
Hunnington and Washington Streets	0.26 mg/L

<b>Disinfectant Residuals for August 5, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
Residence on Fannin Street	0.06 mg/L
Residence on Yellowstone Drive	0.38 mg/L
West Hutchinson and North Hugo Streets	0.40 mg/L

<b>Disinfectant Residuals for August 10, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
West Hutchinson and North Hugo Streets	0.22 mg/L

<b>Disinfectant Residuals for August 13, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
West Hutchinson and North Hugo Streets	0.1 mg/L

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600740070 City of Beeville Classification: AVERAGE Rating: 1.67  
Regulated Entity: RN101419133 CITY OF BEEVILLE WATER SYSTEM Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0130001  
WATER LICENSING LICENSE 0130001  
Location: 400 NORTH WASHINGTON STREET, BEEVILLE, BEE COUNTY, TEXAS  
TCEQ Region: REGION 14 - CORPUS CHRISTI  
Date Compliance History Prepared: October 06, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 06, 2005 to October 06, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Kelly Wisian Phone: 512-239-2570

## 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: 11/13/2009

ADMINORDER 2009-0754-PWS-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failed to provide a flow measuring device to measure the treated water used to backwash the filters

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)

Description: Failed to establish a radius restricted zone of 200 feet from the raw water intake prohibiting recreational activities and trespassing.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)

Description: Failure to restandardize the secondary standards each time the turbidimeter is calibrated with primary standards.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(vi)

Description: Failed to provide Facility records to Commission personnel at the time of the investigation.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L free chlorine or 0.5 mg/L chloramine.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)  
30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failed to enclose the water treatment plant and elevated storage tanks with an intruder-resistant fence.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failed to provide all water storage tanks with a water level indicator located at the tank site.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failed to maintain the overflow on the Facility's storage tanks in strict accordance with current AWWA design standards.

Classification: Minor

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

Description: Failed to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and general appearance of its facilities and equipment.

Classification: Minor

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

Description: Failed to conduct an annual inspection of the Facility's two ground storage tanks.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failed to maintain an up-to-date chemical and microbiological monitoring plan at each water treatment plant and at a central location.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(2)

Description: Failed to measure the free chlorine residual within the distribution system using the amperometric titration method, ferrous titration method, or a DPD colorimetric method which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 mg/L.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.119(a)(2)

Description: Failed to analyze samples used to determine compliance with the treatment technique requirements and MRDLs by a laboratory approved by the Executive Director.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	08/18/2006	(489689)
2	05/21/2007	(559834)
3	09/14/2007	(594023)
4	01/11/2008	(613796)
5	04/25/2008	(680922)
6	05/16/2008	(670837)
7	09/17/2008	(701947)
8	11/14/2008	(707743)
9	05/13/2009	(742995)
10	05/18/2010	(802890)
11	07/06/2010	(828634)

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

Date: 08/18/2006 (489689)

CN600740070

Self Report? NO

Classification: Minor

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

Description: Failure to maintain the units at the surface water plant.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)  
Description: Failure to operate the disinfectant equipment to maintain a minimum chloramine residual of 0.5 mg/L (measured as total chlorine) in each finished water storage tank and throughout the distribution system at all times.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: Failure to calibrate the flow measuring devices and rate-of-flow controllers that are required by §290.42(d)(5) at least once every 12 months.

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

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)  
30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)  
Description: Failure to maintain calibration records for laboratory equipment, flow meters, rate-of-flow controllers, on-line turbidimeters, and on-line disinfectant residual analyzers for at least three years.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)  
Description: Failure to provide a label on every day tank that identifies the tank's contents.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)  
Description: Failure to check the calibration of on-line turbidimeters at least once each week.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)  
Description: Failure to design chemical storage facilities to ensure a reliable supply of chemicals to the feeders, minimize the possibility and impact of accidental spills, and facilitate good housekeeping.

Date: 05/21/2007 (559834) CN600740070

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain the units at the surface water plant.

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

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: Failure to calibrate flow measuring devices and rate-of-flow controllers that are required by 30 TAC Chapter 290.42(d) at least once every twelve months.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(i)  
Description: Failure to calibrate benchtop pH meters according to manufacturers specifications at least once each day.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(ii)  
 Description: Failure to check the calibration of benchtop pH meters with at least one buffer each time a series of samples is run.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)  
 Description: Failure to verify the accuracy of manual disinfectant residual analyzers at least once every 30 days using chlorine solutions of known concentration.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)  
 Description: Failure to calibrate continuous disinfectant residual analyzers at least once every 90 days using chlorine solutions of known concentration.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)  
 Description: Failure to check the calibration of continuous disinfectant residual analyzers at least once each month using chlorine solutions of known concentration or by comparing the results from the online analyzer with the result of approved benchtop amperometric, spectrophotometric, or titration method.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
 Description: Failure to provide all clearwells and water storage tanks with a liquid level indicator located at the tank site.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
 Description: Failure to provide overflow covers for water storage tanks that fit tightly with no gap over 1/16 inch.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
 Description: Failure to locate the discharge opening of the overflows above the surface of the ground and not subject to submergence.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 312, SubChapter F 312.122(b)  
 Description: Failure to apply for a registration on a form approved by the commission, prior to disposing of water treatment plant sludge in a land application unit, surface impoundment, or waste pile.

Date: 04/25/2008 (680922) CN600740070  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(2)  
 Description: BACT - NONACUTE MCL (5% OR >1)

Date: 05/16/2008 (670837) CN600740070  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
 Description: Failed to provide a flow measuring device to measure the treated water used to backwash the filters

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)  
 Description: Failure to operate the disinfection equipment to maintain a minimum chloramine residual of 0.5 mg/l (measured as total chlorine) in each finished water storage tank and throughout the distribution system at all times.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
 Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
Description: Failure to provide a liquid level indicator located at the tank site for all clearwells and water storage tanks.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)  
Description: Failure to provide facilities for determining the amount of disinfectant used daily as well as the amount of disinfectant remaining for use.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(IV)  
Description: Failure to ensure that incompatible chemicals are not stored within the same containment structure.

Date: 09/16/2009 (778038) CN600740070  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
Description: Failure to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L free chlorine or 0.5 mg/L chloramine.

Date: 05/18/2010 (802890) CN600740070  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
Description: Failed to provide a flow measuring device to measure the treated water used to backwash the filters

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(vi)  
Description: Failed to provide Facility records to Commission personnel at the time of the investigation.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)  
30 TAC Chapter 290, SubChapter D 290.43(e)  
Description: Failed to enclose the water treatment plant and elevated storage tanks with an intruder-resistant fence.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failed to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and general appearance of its facilities and equipment.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(2)  
Description: Failed to measure the free chlorine residual within the distribution system using the amperometric titration method, ferrous titration method, or a DPD colorimetric method which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 mg/L.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.119(a)(2)  
Description: Failed to analyze samples used to determine compliance with the treatment technique requirements and MRDLs by a laboratory approved by the Executive Director.

Date: 07/09/2010 (828634) CN600740070  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to initiate maintenance and housekeeping practices to ensure the good

working condition and general appearance of the system's tank facilities and equipment.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.119(a)(2)

Description: Failure to analyze samples used to determine compliance with the treatment technique requirements and maximum residual disinfectant levels (MRDLs) by a laboratory approved by the executive director.

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 BEEVILLE  
RN101419133**

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

## **AGREED ORDER DOCKET NO. 2010-1681-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 Beeville (“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 400 North Washington Street in Beeville, Bee County, Texas (the “Facility”) that has approximately 6,667 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted from August 4 through August 24, 2010, TCEQ staff documented that the Respondent did not operate the disinfection equipment to continuously maintain a disinfectant residual of 0.5 milligrams per liter (“mg/L”) of chloramine throughout the distribution system at all times. Specifically, the tables below indicate the dates and locations that field tests were conducted to measure the disinfectant residuals.

<b>Disinfectant Residuals for August 4, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
1308 Fannin Street	0.02 mg/L
Minnesota Street and Highway 59	0.36 mg/L
Hunnington and Washington Streets	0.26 mg/L

<b>Disinfectant Residuals for August 5, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
Residence on Fannin Street	0.06 mg/L
Residence on Yellowstone Drive	0.38 mg/L
West Hutchinson and North Hugo Streets	0.40 mg/L

<b>Disinfectant Residuals for August 10, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
West Hutchinson and North Hugo Streets	0.22 mg/L

<b>Disinfectant Residuals for August 13, 2010</b>	
<b>Sample Location</b>	<b>Disinfectant Residual Recorded</b>
West Hutchinson and North Hugo Streets	0.1 mg/L

3. The Respondent received notice of the violations on September 30, 2010.
4. The Executive Director recognizes that as of August 24, 2010, the Respondent has continuously maintained adequate disinfectant residuals throughout the distribution system.

## **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 continuously maintain a disinfectant residual of 0.5 mg/L of chloramine

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 One Thousand One Hundred Eighty Dollars (\$1,180) 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 One Thousand One Hundred Eighty Dollar (\$1,180) 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 One Thousand One Thousand One Hundred Eighty Dollars (\$1,180) 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 Beeville, Docket No. 2010-1681-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 Szolner  
For the Executive Director

\_\_\_\_\_  
Date 1/11/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Beeville. I am authorized to agree to the attached Agreed Order on behalf of the City of Beeville, 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 Beeville 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.

Tom Ginter  
Signature

12-07-2010  
Date

Tom Ginter  
Name (Printed or typed)  
Authorized Representative of  
City of Beeville

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.