

City of Mathis

RN101388130

Docket No. 2010-1043-MLM-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

**Media:**

MLM – Public Drinking Water, Municipal Solid Waste

**Small Business:**

N/A

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

1096 Freeman Street, #1068, Mathis, San Patricio County

**Type of Operation:**

municipal public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** March 10, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$9,980

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

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

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

**SEP Conditional Offset:** \$9,980

Name of SEP: City of Corpus Christi – *Wetland Construction, Habitat Enhancements, and Land Acquisition* – Oso Conservation Interpretive Park

**Compliance History Classifications:**

Person/CN – Average

Site/RN – N/A

**Major Source:** PCW 1 (MSW) – No; PCW 2 (PWS) – Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

City of Mathis

RN101388130

Docket No. 2010-1043-MLM-E

***Investigation Information***

**Complaint Date:** N/A  
**Date of Investigation:** April 22, 2010  
**Date of NOV:** May 6, 2009  
**Date of NOE:** June 18, 2010

***Violation Information***

1. Failed to properly dispose municipal solid waste (“MSW”) from the surface water treatment plant at an authorized facility [30 TEX. ADMIN. CODE § 330.15(c) and TEX. WATER CODE § 26.121(a)(1)].
2. Failed to provide separate containment facilities for chemicals that are incompatible [30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)(IV)].
3. Failed to backwash the filters with filtered water [30 TEX. ADMIN. CODE § 290.42(d)(11)(F)(i)].
4. Failed to ensure that the disinfection contact time (“CT”) used by the Facility is based on tracer study data or a theoretical analysis approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs [30 TEX. ADMIN. CODE § 290.111(d)(2)(B)].
5. Failed to measure the chloramine residual within the distribution system using the amperometric titration method, ferrous titration method, or a diethyl-p-phenyldiamine colorimetric method which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 mg/L [30 TEX. ADMIN. CODE § 290.110(d)(2)].
6. Failed to make available for Commission review a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].
7. Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].
8. Failed to design the recorder so that the operator can accurately determine the value of the readings at the monitoring interval approved by the Executive Director [30 TEX. ADMIN. CODE § 290.111(f)(3)(D)].
9. Failed to restandardize the secondary standards each time the benchtop turbidimeter is calibrated with primary standards [30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(i)].
10. Failed to calibrate the flow measuring devices and rate-of-flow controllers at least once every twelve months [30 TEX. ADMIN. CODE § 290.46(s)(1)].
11. Failed to submit properly completed Surface Water Monthly Operating Reports (“SWMORs”) to the Commission [30 TEX. ADMIN. CODE § 290.111(h)(2)].
12. Failed to employ at least one Class “C” or higher surface water operator on duty at the Facility when it is in operation or provide the Facility with continuous turbidity and disinfectant residual monitors with automatic Facility shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission’s drinking water standards during periods when the Facility is not staffed [30 TEX. ADMIN. CODE § 290.46(e)(6)(C) and TEX. HEALTH & SAFETY CODE § 341.033(a)].

13. Failed to collect routine distribution coliform samples at regular time intervals throughout the month [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii)].

***Corrective Actions/Technical Requirements***

**Corrective Actions Completed:**

1. On or about June 10, 2010, began collecting routine distribution samples twice a month (Violation 13).
2. On or about July 1, 2010, removed water connections from the three sewage lift stations to eliminate the need for backflow prevention assemblies (Violation 7).
3. On or about August 17, 2010, submitted documentation demonstrating that a Hach CL-17 total chlorine analyzer from Derrick systems was installed on August 6, 2010 (Violation 5).
4. On or about August 17, 2010, submitted documentation demonstrating that all flow measuring devices and rate-of-flow controllers were calibrated (Violation 10).
5. On or about August 17, 2010, designed the chart recorder to accurately measure readings up to the 5.0 NTU range (Violation 8).
6. On or about September 30, 2010, an employee of Respondent was issued a Class "C" surface water license (Violation 12).

**Technical Requirements:**

1. Immediately cease disposing of any additional water treatment plant sludge waste at the Facility (Violation 1).
2. Within 30 days:
  - a. Remove the water treatment sludge plant waste from the berms around the ponds and dispose of the sludge at an authorized facility (Violation 1);
  - b. Ensure the secondary standards are restandardized each time the benchtop turbidimeter is calibrated with primary standards (Violation 9); and
  - c. Submit a CT study for review and approval that bases the disinfection contact time on tracer study data or theoretical analysis from the actual flow rate that is occurring at the time the monitoring occurs (Violation 4).
3. Within 60 days:
  - a. Begin using only filtered water supplied by elevated wash water tanks, the effluent of other filters, or by pumps which take suction from the clearwell and are provided for backwashing the filters (Violation 3); and
  - b. Update the chemical and microbiological monitoring plan to include a description of the sampling frequency identifying all sampling locations, the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, and written description of the method used to calculate compliance with the maximum contaminant levels and treatment techniques at the Facility (Violation 6).
4. Within 120 days submit properly completed SWMORs to the Commission no later than the tenth day of the month following the end of the reporting period (Violation 11).
5. Within 180 days either ensure that all incompatible chemicals are not stored within the same containment structure or, obtain Executive Director approval for the use of double-wall tanks (Violation 2).

City of Mathis

RN101388130

Docket No. 2010-1043-MLM-E

6. Submit written certification to demonstrate compliance:
  - a. Technical Requirements Nos. 1 and 2 within 45 days.
  - b. Technical Requirement No. 3 within 75 days.
  - c. Technical Requirements Nos. 4 and 5 within 195 days.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** February 15, 2011

***Contact Information***

**TCEQ Attorneys:** Kari L. Gilbreth, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ SEP Coordinator:** Sharon Blue, Litigation Division, (512) 239-2223

**TCEQ Enforcement Coordinator:** Epifanio Villarreal, Water Enforcement Section, (361) 825- 3425

**Respondent:** The Honorable Ciri Villarreal, Mayor, City of Mathis, 411 East San Patricio Avenue,  
Mathis, Texas 78368

**Respondent's Attorney:** Lucinda J. Garcia - Wood, Boykin & Wolter, P.C., 615 N. Upper  
Broadway, Ste. 1100, Corpus Christi, Texas 78401-0748

**Attachment A**  
**Docket Number: 2010-1043-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Mathis
<b>Payable Penalty Amount:</b>	Nine Thousand Nine Hundred Eighty Dollars (\$9,980)
<b>SEP Offset Amount:</b>	Nine Thousand Nine Hundred Eighty Dollars (\$9,980)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	City of Corpus Christi
<b>Project Name:</b>	<i>Wetland Construction, Habitat Enhancements, and Land Acquisition at the Oso Conservation Interpretive Park</i>
<b>Location of SEP:</b>	Nueces County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **City of Corpus Christi** to be used for the *Wetland Construction, Habitat Enhancements, and Land Acquisition at the Oso Conservation Interpretive Park* as set forth in an agreement between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will assist in developing the park and the nature center building to the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design (LEED) Green Building Rating System™) standards.

1) Wetland Construction and Drainage Improvements - The Third-Party Recipient shall use the SEP Offset Amount to construct wetlands as a best management practice for stormwater control. A drainage ditch transects the Property and discharges directly into Oso Bay. The Third-Party Recipient shall construct wetlands so that water in the drainage ditch discharges into the wetlands prior to it entering Oso Bay. Construction of the wetlands must include appropriate contouring, elevations, plantings and water inflow to ensure that the wetlands achieve and maintain functionality. The Third-Party Recipient may also modify other portions of the drainage ditch to enhance stormwater control. By entering into this Agreement, The Third-Party Recipient certifies that it is not required to perform these actions under its stormwater control permit.

2) Habitat Restoration and Management - The Third-Party Recipient shall use the SEP Offset Amount to enhance habitats by restoring degraded wetlands and controlling and removing invasive species. The Property is largely former pasture land that borders on Oso Bay. The former rangeland harbors both non-indigenous species, such as Bermuda grass, and

indigenous species, such as Mesquite and Huisache, that can become invasive and affect habitat functionality. The Third-Party Recipient shall control/remove the invasive species in an environmentally protective manner. Wetland restoration is needed because of past modifications to the landscape (construction of the drainage ditch and grazing) that have negatively affected existing wetlands. The Third-Party Recipient shall re-contour, replant, and perform other activities on these existing wetlands as necessary to restore or enhance the functionality of the wetlands.

3) Acquisition of Additional Land - The Third-Party Recipient shall use the SEP Offset Amount to acquire tracts of land adjacent to the Property. The Third-Party Recipient shall ensure that any land acquired with the SEP Offset Amount has high conservation values, becomes a part of the Oso Conservation Interpretive Park soon after acquisition; and is preserved in perpetuity through a conservation easement approved by the TCEQ.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state, and local governmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

Constructed wetlands, used as a best management practice for stormwater control, will reduce pollutant loading such as oil and grease, nitrogen and bacteria, and floatable trash that can enter into Oso bay.

Restoration of degraded wetlands and the removal of invasive species will return the property to ecological functionality. Wetlands are known for providing habitat for wildlife, filtering pollutants, and retaining stormwater, as well as providing other ecological services.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of the SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

City of Corpus Christi  
Attention: City Manager  
1201 Leopard Street  
Corpus Christi, TX 78401

### 3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
PO Box 13087  
Austin, Texas 78711-3087

### 4. Failure to Fully Perform

If Respondent does not perform its obligations under the SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

Respondent shall make the check payable to the "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
PO Box 13088  
Austin, Texas 78711-3088

### 5. Publicity

Any public statements concerning the SEP made by or on behalf of Respondent must include a clear statement that the **Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include but are not limited to advertising, public relations, and press releases.

### 6. Clean Texas Program

Respondent shall not include the SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

### 7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	21-Jun-2010	<b>Screening</b>	25-Jun-2010	<b>EPA Due</b>	
	<b>PCW</b>	29-Oct-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Mathis		
<b>Reg. Ent. Ref. No.</b>	RN101388130		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39944	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1043-MLM-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Municipal Solid Waste	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Public Water Supply	<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit</b>	<b>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>	\$1,000
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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>	31.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$310
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Notes: The penalty enhancement is due to one agreed final enforcement order containing a denial of liability, one prior Notice of Violation ("NOV") issued containing violations that are the same as or similar to the violations in the current enforcement action, and three prior dissimilar NOV's.

<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</b>	<b>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: \$1  
 Approx. Cost of Compliance: \$20  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,310
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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:

<b>Final Penalty Amount</b>	\$1,310
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,310
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$1,310
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**Screening Date** 25-Jun-2010

**Docket No.** 2010-1043-MLM-E

**PCW**

**Respondent** City of Mathis

*Policy Revision 2 (September 2002)*

**Case ID No.** 39944

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101388130

**Media [Statute]** Municipal Solid Waste

**Enf. Coordinator** Epifanio Villarreal

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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)** 31%

**>> 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** The penalty enhancement is due to one agreed final enforcement order containing a denial of liability, one prior Notice of Violation ("NOV") issued containing violations that are the same as or similar to the violations in the current enforcement action, and three prior dissimilar NOV's.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 31%

<b>Screening Date</b>	25-Jun-2010	<b>Docket No.</b>	2010-1043-MLM-E	<b>PCW</b>
<b>Respondent</b>	City of Mathis	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	39944	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101388130			
<b>Media [Statute]</b>	Municipal Solid Waste			
<b>Enf. Coordinator</b>	Epifanio Villarreal			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 330.15(c) and Tex. Water Code § 26.121(a)(1)			
<b>Violation Description</b>	Failed to properly dispose municipal solid waste ("MSW") from the surface water treatment plant at an authorized facility. Specifically, at the time of the investigation, it was documented that water treatment plant sludge hat had been removed from he backwash/sludge lagoons was improperly disposed of on the ground around he ponds.			
<b>Base Penalty</b>				\$10,000

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			x
	Potential			
				<b>Percent</b> 10%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%
<b>Matrix Notes</b>	The unauthorized MSW from the Facility's surface water treatment process has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.				
<b>Adjustment</b>					\$9,000

\$1,000

**Violation Events**

Number of Violation Events	1	64	Number of violation days
<i>mark only one with an x</i>	daily		<b>Violation Base Penalty</b> \$1,000
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		
One quarterly event is recommended from the date of the investigation, April 22, 2010, to he date of screening, June 25, 2010.			

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

	Before NOV	NOV to EDRP/Settlement
Extraordinary		
Ordinary		
N/A	x	mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b> \$1,000		

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

<b>Estimated EB Amount</b>	\$1	<b>Violation Final Penalty Total</b>	\$1,310
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$1,310

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Municipal Solid Waste  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$20	22-Apr-2010	1-Feb-2011	0.78	\$1	n/a	\$1
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 dispose of the plant sludge at an authorized facility, (\$20 per ton) calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20

**TOTAL**

\$1



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	21-Jun-2010	<b>Screening</b>	25-Jun-2010	<b>EPA Due</b>	
	<b>PCW</b>	29-Oct-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Mathis		
<b>Reg. Ent. Ref. No.</b>	RN101388130		
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39944	<b>No. of Violations</b>	12
<b>Docket No.</b>	2010-1043-MLM-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$50	<b>Maximum</b>
			\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$6,560</b>
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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>	40.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,624</b>
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Notes: The penalty enhancement is due to one agreed final enforcement order containing a denial of liability and four prior Notices of Violation ("NOVs") issued containing violations that are the same as or similar to the violations in the current enforcement action.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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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>	<b>\$550</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$1,700  
 Approx. Cost of Compliance: \$15,341  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$8,634</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$8,634</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$8,670</b>
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	<b>\$0</b>
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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.

<b>PAYABLE PENALTY</b>	<b>\$8,670</b>
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**Screening Date** 25-Jun-2010

**Docket No.** 2010-1043-MLM-E

**PCW**

**Respondent** City of Mathis

Policy Revision 2 (September 2002)

**Case ID No.** 39944

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101388130

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Epifanio Villarreal

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	0	0%
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%
<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)** 40%

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

N/A

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

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

Average Performer

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

**>> Compliance History Summary**

**Compliance History Notes**

The penalty enhancement is due to one agreed final enforcement order containing a denial of liability and four prior Notices of Violation ("NOVs") issued containing violations that are the same as or similar to the violations in the current enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

<b>Screening Date</b>	25-Jun-2010	<b>Docket No.</b>	2010-1043-MLM-E	<b>PCW</b>
<b>Respondent</b>	City of Mathis	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	39944	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101388130			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Epifanio Villarreal			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.42(f)(1)(E)(ii)(IV)			
<b>Violation Description</b>	Failed to provide separate containment facilities for chemicals that are incompatible. Specifically, at the time of the investigation, it was documented that the liquid ammonium sulfate, caustic, and alum double-walled day tanks are stored in the same containment structure.			
<b>Base Penalty</b>	\$1,000			

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
	Potential		x	
				<b>Percent</b> 25%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%
<b>Matrix Notes</b>	Failing to provide separate containment structures for chemicals that are incompatible could result in employees and the public becoming exposed to a significant amount of contaminants which would not exceed levels protective of human health.				
					<b>Adjustment</b> \$750

\$250

**Violation Events**

Number of Violation Events	1	64	Number of violation days
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		
	<b>Violation Base Penalty</b> \$250		
One quarterly event is recommended from the date of the investigation, April 22, 2010, to the date of screening, June 25, 2010.			

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

	Before NOV	NOV to EDRP/Settlement
Extraordinary		
Ordinary		
N/A	x	mark with x
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b> \$250		

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

<b>Estimated EB Amount</b>	\$864	<b>Violation Final Penalty Total</b>	\$350
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$350	

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,362	22-Apr-2010	1-Jul-2011	1.19	\$41	\$823	\$864
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: The delayed cost includes the estimated amount to obtain approval from the Executive Director for the double-wall tanks or provide separate facilities for each chemical stored, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$10,362	<b>TOTAL</b>	\$864
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**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
<input type="text" value="Failing to use filtered water to backwash the filters may not allow adequate cleaning during the backwash cycle resulting in customers of the Facility being exposed to a significant amounts of contaminants which would not exceed levels protective of human health."/>					
					<b>Adjustment</b> <input type="text" value="\$750"/>

**Violation Events**

Number of Violation Events   Number of violation days  
 mark only one with an x  

daily	<input type="text"/>
weekly	<input type="text"/>
mon hly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text" value="mark with x)"/>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
<b>Violation Subtotal</b> <input type="text" value="\$250"/>		

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

**Estimated EB Amount**  **Violation Final Penalty Total**   
**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**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)	\$113	22-Apr-2010	1-Mar-2011	0.86	\$0	\$6	\$7
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

The delayed cost includes the estimated amount to use filtered water from an approved source to backwash the filters, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$113

**TOTAL**

\$7

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.111(d)(2)(B)  
**Violation Description**  
 Failed to ensure that the disinfection contact time ("CT") used by the Facility is based on tracer study data or a theoretical analysis approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs. Specifically, at the time of the investigation, a review of the revised CT study dated October 7, 2009 revealed that the CT study has not been reviewed or approved by the Executive Director.

**Base Penalty** \$1,000

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="25%"/>	
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	x	<input type="text"/>	

**>> Programmatic Matrix**

<b>Matrix Notes</b>	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	<b>Percent</b> <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Failing to disinfect the Facility's water in accordance with an approved CT study could result in improper disinfection of the water exposing customers to a significant amount of contaminants which would not exceed levels that are protective of human health.				
					<b>Adjustment</b> <input type="text" value="\$750"/>

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended from the date of the investigation, April 22, 2010, to the date of screening, June 25, 2010.

**Good Faith Efforts to Comply**  Reduction

	<b>Before NOV</b>	<b>NOV to EDRP/Settlement Offer</b>
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

**Violation Subtotal**

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$2"/>	Violation Final Penalty Total <input type="text" value="\$350"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$350"/>	

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**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)	\$45	22-Apr-2010	1-Feb-2011	0.78	\$0	\$2	\$2
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

The delayed cost includes the estimated amount to submit a new CT study for review and approval, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

**TOTAL**

\$2

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
<input type="text" value="Failure to use an approved method of analysis could prevent the Facility from accurately measuring the disinfectant residual, which could result in customers of the Facility being exposed to a significant amounts of contaminants which would not exceed levels protective of human health."/>					
<b>Adjustment</b>					<input type="text" value="\$750"/>

**Violation Events**

Number of Violation Events   Number of violation days  
 mark only one with an x  
 daily   
 weekly   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event   
**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	(mark with x)
Notes	<input type="text" value="The Respondent achieved compliance on August 17, 2010."/>	
<b>Violation Subtotal</b> <input type="text" value="\$225"/>		

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$2"/>	Violation Final Penalty Total <input type="text" value="\$325"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$325"/>	

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**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)	\$75	22-Apr-2010	17-Aug-2010	0.32	\$0	\$2	\$2
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

The delayed cost includes the estimated amount to measure the disinfectant residual with an approved method, calculated from the date of the investigation to the 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

\$75
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TOTAL

\$2
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**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 5  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.121(a) and (b)  
**Violation Description** Failed to make available for Commission review a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, at the time of the investigation, it was documented that the monitoring plan did not include all the required information such as: descriptions of the sampling frequency, the analytical procedures and laboratories used to comply with monitoring requirements, written descriptions of the methods used to calculate compliance with maximum contaminant levels, maximum residual disinfectants levels, and treatment techniques at the Facility.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
			x		10%

30% to 70% of the rule requirement was not met.

**Adjustment** \$900

\$100

**Violation Events**

Number of Violation Events 1 64 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$100

One single event is recommended.

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

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

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

**Violation Subtotal** \$100

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

**Estimated EB Amount** \$2 **Violation Final Penalty Total** \$140

**This violation Final Assessed Penalty (adjusted for limits)** \$140

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**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	\$45	22-Apr-2010	1-Mar-2011	0.86	\$2	n/a	\$2
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 revise the chemical and microbiological monitoring plan, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

**TOTAL**

\$2

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 6  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.44(h)(1)(A)  
**Violation Description**  
 Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists. Specifically, at the time of the investigation, it was documented that there were no backflow prevention assemblies or air gaps installed for the three sewage lift stations.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes**  
 Failing to provide a backflow prevention assembly or air gap at connections where an actual or potential hazard exists may allow backflow and siphonage to occur; thereby exposing customers to significant amounts of contamination which could exceed levels that are protective of human health.

**Adjustment** \$500

\$500

**Violation Events**

Number of Violation Events 9 64 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

*mark only one with an x*

**Violation Base Penalty** \$4,500

Nine monthly events are recommended (three monthly events for each site without a backflow assembly) from the date of the investigation, April 22, 2010, to the date of screening, June 25, 2010.

**Good Faith Efforts to Comply** 10.0% Reduction \$450

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		mark with x

**Notes**  
 The Respondent achieved compliance on July 1, 2010.

**Violation Subtotal** \$4,050

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

**Estimated EB Amount** \$2 **Violation Final Penalty Total** \$5,850

**This violation Final Assessed Penalty (adjusted for limits)** \$5,850

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 6

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)	\$123	22-Apr-2010	1-Jul-2010	0.19	\$0	\$2	\$2
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

The delayed cost includes the estimated amount remove the water connections from the three sewage lift stations, calculated from the date of the investigation to the 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

\$123

**TOTAL**

\$2

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Failing to design the recorder so the operator can determine the monitoring interval may result in inaccurate value of readings at the monitoring interval, which could expose customers to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

**Adjustment**

**Violation Events**

<input type="text" value="1"/>	<input type="text" value="64"/>	Number of violation days
<i>mark only one with an x</i> daily <input type="text"/> weekly <input type="text"/> monthly <input type="text"/> quarterly <input type="text"/> semiannual <input type="text"/> annual <input type="text"/> single event <input checked="" type="text" value="x"/>	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$100"/>

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	mark with x
Notes	<input type="text" value="The Respondent achieved compliance on August 17, 2010."/>	

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 7

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	\$1,000	22-Apr-2010	17-Aug-2010	0.32	\$1	\$21	\$22
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

The delayed cost includes the estimated amount to design a recorder to accurately determine the data readings at the monitoring interval, calculated from the date of the investigation to the 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

\$1,000

**TOTAL**

\$22

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 8  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.46(s)(2)(B)(i)  
**Violation Description** Failed to restandardize the secondary standards each time the benchtop turbidimeter is calibrated with primary standards. Specifically, at the ime of the investigation, it was documented that each time the Hach benchtop turbidimeter was calibrated with primary standards (StablCal), the secondary standards (Gelex) were not restandardized.  
**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential			x	

**>>Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Failure to properly restandardize the secondary standards could expose the Facility to an insignificant amount of contaminants which would not exceed levels that are protective of human health or environmental receptors

**Adjustment** \$900  
 \$100

**Violation Events**

1                      28 Number of violation days  
 mark only one with an x  

daily	
weekly	
mon hly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$100  
 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** \$100

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

**Estimated EB Amount** \$2                      **Violation Final Penalty Total** \$140  
**This violation Final Assessed Penalty (adjusted for limits)** \$140

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 8

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	\$31	22-Apr-2010	1-Feb-2011	0.78	\$0	\$2	\$2
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

The delayed cost includes the estimated amount to properly calibrate the secondary standards, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$31
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TOTAL

\$2
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**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 9  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.46(s)(1)  
**Violation Description** Failed to calibrate the flow measuring devices and rate-of-flow controllers at least once every twelve months. Specifically, at the time of the investigation, it was documented that the flow measuring devices provided to measure the raw water supplied to the plant, the recycled decant water, the treated water used to backwash the filters, and the treated water discharged from the plant were last calibrated in 2008.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential			x	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Failure to have flow measuring devices calibrated could result in inaccurate data that measures raw water thereby exposing customers to insignificant amount of contaminants that would not exceed levels protective of human health.					

**Adjustment** \$900

\$100

**Violation Events**

Number of Violation Events 4 365 Number of violation days

*mark only one with an x*

daily	
weekly	
mon hly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$400

Four single events are recommended (one event per flow measuring device not calibrated).

**Good Faith Efforts to Comply** 10.0% Reduction \$40

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

**Notes** The Respondent achieved compliance on August 17, 2010.

**Violation Subtotal** \$360

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

**Estimated EB Amount** \$136 **Violation Final Penalty Total** \$520

**This violation Final Assessed Penalty (adjusted for limits)** \$520

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 9

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
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$124	22-Apr-2009	22-Apr-2010	1.92	\$12	\$124	\$136

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the flow measuring devices, calculated for he one year prior to the investigation date.

Approx. Cost of Compliance

\$124

**TOTAL**

\$136

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 10  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.111(h)(2)  
**Violation Description** Failed to submit properly completed Surface Water Monthly Operating Reports ("SWMORs") to the Commission. Specifically, at the time of the investigation, it was documented that the data reported was not from the continuous and/or online monitoring equipment; rather, the data was obtained from grab samples.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
				x	
At least 70% of the rule requirement is met.					

**Adjustment** \$990

\$10

**Violation Events**

Number of Violation Events 1 Number of violation days 1

*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** \$47

**Violation Final Penalty Total** \$14

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

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 10

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
ONE-TIME avoided costs [3]	\$45	22-Apr-2010	25-Jun-2010	1.09	\$2	\$45	\$47
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to submit complete SWMORs, calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance \$45

**TOTAL** \$47

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 11  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.46(e)(6)(C) and Tex. Health & Safety Code § 341.033(a)  
**Violation Description**  
 Failed to employ at least one Class "C" or higher surface water operator on duty at the plant when it is in operation or provide the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the plant is not staffed. Specifically, at the time of the investigation, it was documented that the Facility staffs the plant with a Class "D" operator between shifts when the plant is in operation.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential			x		

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Failing to operate the Facility with an operator with the appropriate license may not allow for the proper maintenance and operation of the Facility's equipment and personnel may not be properly trained to address the disinfection and capacity needs of the Facility. As a result, customers of the Facility could be exposed to a significant amount of contaminants which would not exceed levels that are protective of human health.					
<b>Adjustment</b>					\$750

\$250

**Violation Events**

Number of Violation Events: 1      64 Number of violation days

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

**Violation Base Penalty** \$250

One quarterly event is recommended from the date of the investigation, April 22, 2010, to the date of screening, June 25, 2010.

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

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

**Violation Subtotal** \$250

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$613	Violation Final Penalty Total \$350
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$350	

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 11

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	\$3,328	22-Apr-2010	25-Jun-2010	0.18	\$29	\$584	\$613
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

The avoided cost includes the estimated amount to employ an operator with a Class "C" surface water license, calculated from the date the investigation to the date of screening.

Approx. Cost of Compliance

\$3,328

**TOTAL**

\$613

**Screening Date** 25-Jun-2010 **Docket No.** 2010-1043-MLM-E **PCW**  
**Respondent** City of Ma his *Policy Revision 2 (September 2002)*  
**Case ID No.** 39944 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101388130  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

V12 12

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(ii)

**Violation Description**  
 Failed to collect routine distribution coliform samples at regular time intervals throughout the month. Specifically, at the time of the investigation, it was documented that all the seven coliform samples are collected on the same day each mon h instead of collecting them twice a month at regular intervals.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Failure to collect coliform monitoring samples twice a month at regular intervals could expose consumers to an insignificant amount of undetected contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 49 Number of violation days

daily	
weekly	
mon hly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$25

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

Notes The Respondent achieved compliance on June 10, 2010.

Violation Subtotal \$75

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$115

This violation Final Assessed Penalty (adjusted for limits) \$115

## Economic Benefit Worksheet

**Respondent** City of Mathis  
**Case ID No.** 39944  
**Reg. Ent. Reference No.** RN101388130  
**Media** Public Water Supply  
**Violation No.** 12

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)	\$50	22-Apr-2010	10-Jun-2010	0.13	\$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

The delayed cost includes the estimated amount to develop a protocol to ensure that coliform samples are collected twice a month, calculated from the date of the investigation to the 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

\$50

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600241459	City of Mathis	Classification: AVERAGE	Rating: 2.01
Regulated Entity:	RN101388130	CITY OF MATHIS	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	2050003
	WATER LICENSING		LICENSE	2050003
Location:	1096 FREEMAN ST # 1068, MATHIS, SAN PATRICIO COUNTY, TEXAS			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	June 21, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 21, 2005 to June 21, 2010			

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

Name: Epi Villarreal Phone: (361) 825-3425

## 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: 02/05/2006 ADMINORDER 2005-1328-PWS-E
  - Classification: Major
  - Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THC Chapter 341, SubChapter A 341.0315(c)
  - Description: Failed to comply with the maximum contaminant level of 0.060 milligrams per liter for haloacetic acids, based on a running annual average for third quarter of 2004.
  - Classification: Major
  - Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)
  - Description: Failed to comply with the maximum contaminant level of 0.080 milligrams per liter for trihalomethanes, based on a running annual average for second quarter of 2004.
- 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	09/15/2005	(407028)
2	05/30/2006	(467962)
3	09/08/2006	(511589)
4	01/12/2007	(535988)
5	08/30/2007	(571552)
6	01/11/2008	(613842)
7	05/27/2008	(671054)
8	09/19/2008	(701975)
9	05/06/2009	(742993)
10	06/09/2009	(740125)
11	09/24/2009	(775947)
12	06/18/2010	(802386)

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

Date: 05/30/2006 (467962) CN600241459

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)

Description: Failure to test all backflow prevention devices, that are required according to the table located in 290.47 (i), upon installation and at least annually thereafter by a recognized backflow prevention assembly tester.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to ensure that additional protection is required at the meter in the form of an air gap or backflow prevention assembly at any establishment where an actual or potential contamination hazard exists.

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)(B)(ii)

Description: Failure to check the calibration of benchtop turbidimeters with secondary standards each time a series of samples is run.

Self Report? NO Classification: Minor

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

Description: Failure to calibrate the on-line turbidimeters with primary standards once every 90 days.

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 concentrations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(B)

Description: Failure to employ at least two operators one of which who holds a Class "B" or higher surface water license and the other who holds a Class "C" or higher surface water license.

Self Report? NO Classification: Minor

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

Description: Failure to operate the disinfection equipment to maintain a minimum chloramines disinfectant 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(j)

Description: Failure to complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)

Description: Failure to provide each filter with facilities to regulate the filtration rate.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)

Description: Failure to identify influent, effluent, waste backwash, and chemical feed lines with labels or various colors of paint.

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.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)(A)

Description: Failure to have a standby or reserve chemical feeder for each chemical feeder that is needed to comply with a treatment technique or MCL requirement.

Self Report? NO Classification: Minor

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

Description: Failure to ensure that all chemicals used in the treatment of water supplied by public water systems conform to American National Standards Institute/National

Sanitation Foundation (ANSI/NSF) standard 60 for direct additives and ANSI/NSF standard 61 for indirect additives.

Date: 08/30/2007 (571552) CN600241459

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)  
Description: Failure to operate the disinfection equipment to maintain a minimum chloramines disinfectant 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)(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)(B)(iv)  
Description: Failure to check the calibration of on-line turbidimeters at least once each week with a primary standard, a secondary standard, or the manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit.

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

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vii)  
Description: Failure to maintain a daily record or a monthly summary of work performed and the number of hours worked by each part-time operator used to meet the requirements of 30 TAC 290.46(e).

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure to develop and 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 plant site for all clearwells and water storage tanks.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
Description: Failure to locate overflows on ground storage tanks, which terminate at any point other than ground level, near enough to or accessible from a ladder or balcony for inspection purposes.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)  
Description: Failure to protect disinfection equipment and cylinders installed on the outside of the buildings from adverse weather conditions and vandalism.

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 F 290.110(c)(2)(A)  
Description: Failure to continuously monitor and record the disinfectant residual of the water entering distribution.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)  
Description: Failure to plug abandoned public water supply wells owned by the system with cement according to 16 TAC Chapter 76 (relating to Water Well Drillers and Water Pump Installers).

Date: 05/27/2008 (671054) CN600241459

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(D)  
Description: Failure to provide each filter with facilities to regulate the filtration rate.

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.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(f)(2)(A)		
Description:	Failure to have a standby or reserve chemical feeder for each chemical feeder that is needed to comply with a treatment technique or MCL requirement.		
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 plant site for all clearwells and water storage tanks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)		
Description:	Failure to locate overflows on ground storage tanks, which terminate at any point other than ground level, near enough to or accessible from a ladder or balcony for inspection purposes.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to inspect each of the system's ground, elevated, and pressure tanks annually by water system personnel or a contracted inspection service.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(i)		
Description:	Failure to use water only filtered water supplied by elevated wash water tanks, by the effluent of other filters, or by pumps which take suction from the clearwell and are provided for backwashing filters only.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:	Failure to provide flow measuring devices to measure the raw water supplied to the plant, the recycled decant water, the treated water used to backwash the filters, and the treated water discharged from the plant.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to employ maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water.		
Date: 05/06/2009 (742993) CN600241459			
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.		
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 plant site for all clearwells and water storage tanks.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(i)		
Description:	Failure to prevent the discharge of wastewater and other plant wastes. Permits for discharging wastes from the water treatment process shall be obtained from the commission if necessary.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(i)		
Description:	Failure to use only filtered water supplied by elevated wash water tanks, by the effluent of other filters, or by pumps which take suction from the clearwell and are provided for backwashing filters only for backwashing the filters.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)		
Description:	Failure to establish a restriction zone of 200 feet radius from the raw water intake works prohibiting all recreational activities and trespassing.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(11)(E)(ii) 30 TAC Chapter 290, SubChapter F 290.111(e)(3)(C)		
Description:	Failure to equip each filter with an on-line turbidimeter and recorder which will allow the operator to measure and record the turbidity at 15-minute intervals.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(m)		

Description: Failure to enclose each water treatment plant and all appurtenances thereof by an intruder-resistant fence.

Self Report? NO Classification: Minor

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

Description: Failure to use maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment.

Self Report? NO Classification: Minor

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

Description: Failure to calibrate benchtop turbidimeters with primary standards at least once every 90 days.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(2)(B)

Description: Failure to base disinfection contact time on tracer study data or a theoretical analysis submitted by the system owner or their designated agent and approved by the executive director and the actual flow rate that is occurring at the time that monitoring occurs.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)

Description: Failure to cause, suffer, allow, or permit the collection, storage, transportation, processing, or disposal of municipal solid waste (MSW) in such a manner as to not cause: 1. discharge or imminent threat of discharge of MSW into or adjacent to the waters in the state without obtaining specific authorization for the discharge from the commission; 2. the creation and maintenance of a nuisance; or 3. the endangerment of the human health and welfare or the environment.

Self Report? YES Classification: Minor

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

Description: Failure to measure the chloramine residual to a minimum accuracy of plus or minus 0.1 mg/l using one of the following methods: (A) Amperometric titration; (B) DPD Ferrous titration; or (C) DPD colorimetric.

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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF MATHIS;  
RN101388130**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2010-1043-MLM-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding City of Mathis ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE chs. 341 and 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Lucinda J. Garcia, of the law firm of Wood, Boykin & Wolter, P.C., presented this Agreed Order to the Commission.

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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a municipal public water system located at 1096 Freeman St., #1068, Mathis, San Patricio County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 1,824 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66). The Facility involves the management and/or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on April 22, 2010, a TCEQ Corpus Christi Regional Office investigator documented that Respondent:
  - a. Failed to properly dispose municipal solid waste ("MSW") from the surface water treatment plant at an authorized facility. Specifically, water treatment plant sludge that had been removed from the backwash/sludge lagoons was improperly disposed of on the ground around the ponds;

- b. Failed to provide separate containment facilities for chemicals that are incompatible. Specifically, the liquid ammonium sulfate, caustic, and alum double-walled day tanks were stored in the same containment structure;
- c. Failed to backwash the filters with filtered water. Specifically, the water being used to backwash the filters was not being supplied from proper sources such as elevated wash water tanks, effluent of other filters, or by pumps which take suction from the clearwell and from sources dedicated to backwashing filters only;
- d. Failed to ensure that the disinfection contact time ("CT") used by the Facility is based on tracer study data or a theoretical analysis approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs. Specifically, a review of the revised CT study dated October 7, 2009, revealed that the CT study has not been reviewed or approved by the Executive Director;
- e. Failed to measure the chloramine residual within the distribution system using the amperometric titration method, ferrous titration method, or a diethyl-p-phenyldiamine colorimetric method which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 milligrams per liter ("mg/L"). Specifically, the disinfectant residual entering the distribution system was being monitored with the Endress and Hauser Model (amperometric sensor) on-line chlorine residual analyzer, which is not an approved method for measuring chloramine residual;
- f. Failed to make available for Commission review a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, the monitoring plan did not include all the required information such as: descriptions of the sampling frequency, the analytical procedures and laboratories used to comply with monitoring requirements, written descriptions of the methods used to calculate compliance with maximum contaminant levels, maximum residual disinfectant levels, and treatment techniques at the Facility;
- g. Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists. Specifically, there were no backflow prevention assemblies or air gaps installed for the three sewage lift stations;
- h. Failed to design the recorder so that the operator can accurately determine the value of the readings at the monitoring interval approved by the Executive Director. Specifically, the chart recorders used for the data collection from the on-line turbidimeters did not accurately measure up to 2.0 nephelometric turbidity units ("NTU"). Instead, the chart recorder only measured up to 1.0 NTU;
- i. Failed to restandardize the secondary standards each time the benchtop turbidimeter is calibrated with primary standards. Specifically, each time the

Hach benchtop turbidimeter was calibrated with primary standards (StablCal), the secondary standards (Gelex) were not restandardized;

- j. Failed to calibrate the flow measuring devices and rate-of-flow controllers at least once every twelve months. Specifically, the flow measuring devices provided to measure the raw water supplied to the Facility, the recycled decant water, the treated water used to backwash the filters, and the treated water discharged from the Facility were last calibrated in 2008;
  - k. Failed to submit properly completed Surface Water Monthly Operating Reports ("SWMORs") to the Commission. Specifically, the data reported was not from the continuous and/or online monitoring equipment; rather, the data was obtained from grab samples;
  - l. Failed to employ at least one Class "C" or higher surface water operator on duty at the Facility when it is in operation or provide the Facility with continuous turbidity and disinfectant residual monitors with automatic Facility shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the Facility is not staffed. Specifically, the Facility staffs the Facility with a Class "D" operator between shifts when the Facility is in operation; and
  - m. Failed to collect routine distribution coliform samples at regular time intervals throughout the month. Specifically, all seven coliform samples are collected on the same day each month instead of collecting them twice a month at regular intervals.
3. Respondent received notice of the violations on or about June 23, 2010.
  4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
    - a. On or about June 10, 2010, began collecting routine distribution samples twice a month (Conclusion of Law No. 14);
    - b. On or about July 1, 2010, removed water connections from the three sewage lift stations to eliminate the need for backflow prevention assemblies (Conclusion of Law No. 8);
    - c. On or about August 17, 2010, submitted documentation demonstrating that a Hach CL-17 total chlorine analyzer from Derrick systems was installed on August 6, 2010 (Conclusion of Law No. 6);
    - d. On or about August 17, 2010, submitted documentation demonstrating that all flow measuring devices and rate-of-flow controllers were calibrated (Conclusion of Law No. 11);
    - e. On or about August 17, 2010, designed the chart recorder to accurately measure readings up to the 5.0 NTU range (Conclusion of Law No. 9); and

- f. On or about September 30, 2010, an employee of Respondent was issued a Class "C" surface water license (Conclusion of Law No. 13).

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE chs. 341 and 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent violated 30 TEX. ADMIN. CODE § 330.15(c) and Tex. Water Code § 26.121(a)(1), by failing to properly dispose MSW from the surface water treatment plant at an authorized facility.
3. As evidenced by Finding of Fact No. 2.b., Respondent violated 30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)(IV), by failing to provide separate containment facilities for chemicals that are incompatible.
4. As evidenced by Finding of Fact No. 2.c., Respondent violated 30 TEX. ADMIN. CODE § 290.42(d)(11)(F)(i), by failing to backwash the filters with filtered water.
5. As evidenced by Finding of Fact No. 2.d., Respondent violated 30 TEX. ADMIN. CODE § 290.111(d)(2)(B), by failing to ensure that the disinfection CT used by the Facility is based on tracer study data or a theoretical analysis approved by the Executive Director and the actual flow rate that is occurring at the time that monitoring occurs.
6. As evidenced by Finding of Fact No. 2.e., Respondent violated 30 TEX. ADMIN. CODE § 290.110(d)(2), by failing to measure the chloramine residual within the distribution system using the amperometric titration method, ferrous titration method, or a diethyl-p-phenyldiamine colorimetric method which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 mg/L.
7. As evidenced by Finding of Fact No. 2.f., Respondent violated 30 TEX. ADMIN. CODE § 290.121(a) and (b), by failing to make available for Commission review a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements.
8. As evidenced by Finding of Fact No. 2.g., Respondent violated 30 TEX. ADMIN. CODE § 290.44(h)(1)(A), by failing to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists.
9. As evidenced by Finding of Fact No. 2.h., Respondent violated 30 TEX. ADMIN. CODE § 290.111(f)(3)(D), by failing to design the recorder so that the operator can accurately determine the value of the readings at the monitoring interval approved by the Executive Director.
10. As evidenced by Finding of Fact No. 2.i., Respondent violated 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(i), by failing to restandardize the secondary standards each time the benchtop turbidimeter is calibrated with primary standards.

11. As evidenced by Finding of Fact No. 1.j., Respondent violated 30 TEX. ADMIN. CODE § 290.46(s)(1), by failing to calibrate the flow measuring devices and rate-of-flow controllers at least once every twelve months.
12. As evidenced by Finding of Fact No. 2.k., Respondent violated 30 TEX. ADMIN. CODE § 290.111(h)(2), by failing to submit properly completed SWMORs to the Commission.
13. As evidenced by Finding of Fact No. 2.l., Respondent violated 30 TEX. ADMIN. CODE § 290.46(e)(6)(C) and TEX. HEALTH & SAFETY CODE § 341.033(a), by failing to employ at least one Class "C" or higher surface water operator on duty at the Facility when it is in operation or provide the Facility with continuous turbidity and disinfectant residual monitors with automatic Facility shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the Facility is not staffed.
14. As evidenced by Finding of Fact No. 2.m., Respondent violated 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii), by failing to collect routine distribution coliform samples at regular time intervals throughout the month.
15. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
16. An administrative penalty in the amount of nine thousand nine hundred eighty dollars (\$9,980.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053 for the MSW violation and TEX. HEALTH & SAFETY CODE § 341.049 for the public water supply violations. Pursuant to TEX. WATER CODE § 7.067, nine thousand nine hundred eighty dollars (\$9,980.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 16, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.

2. Respondent shall implement and complete a SEP as set forth in Conclusion of Law No.16, above. The amount of nine thousand nine hundred eighty dollars (\$9,980.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondent shall cease disposing of any additional water treatment plant sludge waste at the Facility. (Conclusion of Law No. 2)
  - b. Within 30 days after the effective date of the Agreed Order, Respondent shall:
    - i. Remove the water treatment sludge plant waste from the berms around the ponds and dispose of the sludge at an authorized facility (Conclusion of Law No. 2);
    - ii. Ensure the secondary standards are restandardized each time the benchtop turbidimeter is calibrated with primary standards, in accordance with 30 TEX. ADMIN. CODE § 290.111 (Conclusion of Law No. 10); and
    - iii. Submit a CT study for review and approval that bases the disinfection contact time on tracer study data or theoretical analysis from the actual flow rate that is occurring at the time the monitoring occurs, in accordance with 30 TEX. ADMIN. CODE § 290.111. (Conclusion of Law No. 5). The study shall be submitted to:

Texas Commission on Environmental Quality  
Water Supply Division, Technical Review & Oversight Team  
P.O. Box 13087, MC 155  
Austin, Texas 78711-3087
  - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit certification as described below in Ordering Provision No. 3.h., and include supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b.i. through 3.b.iii.
  - d. Within 60 days after the effective date of this Agreed Order, Respondent shall:
    - i. Begin using only filtered water supplied by elevated wash water tanks, the effluent of other filters, or by pumps which take suction from the clearwell and are provided for backwashing the filters, in accordance with 30 TEX. ADMIN. CODE § 290.42 (Conclusion of Law No. 4); and

- ii. Update the chemical and microbiological monitoring plan to include a description of the sampling frequency identifying all sampling locations, the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, and written description of the method used to calculate compliance with the maximum contaminant levels and treatment techniques at the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.121 (Conclusion of Law No. 7).
- e. Within 75 days after the effective date of this Agreed Order, Respondent shall submit certification as described below in Ordering Provision No. 3.h., and include supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.d.i. and 3.d.ii.
- f. Within 120 days after the effective date of this Agreed Order, Respondent shall submit properly completed SWMORs to the Commission no later than the tenth day of the month following the end of the reporting period (Conclusion of Law No. 12). The SWMORs shall be submitted to:

Texas Commission on Environmental Quality  
Water Supply Division  
P.O. Box 13087, MC155  
Austin, Texas 78711-3087

- g. Within 180 days after the effective date of this Agreed Order, Respondent shall either ensure that all incompatible chemicals are not stored within the same containment structure, or obtain Executive Director approval for the use of double-wall tanks, in accordance with 30 TEX. ADMIN. CODE § 290.42 (Conclusion of Law No. 3).
- h. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.f. and 3.g. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

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

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

Kelly Ruble, Water Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

4. All relief not expressly granted in this Agreed Order is denied.
5. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. If Respondent fails to comply with Ordering Provision Nos. 3.a. and/or 3.c., as they pertain to Ordering Provision No. 3.a., within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. 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

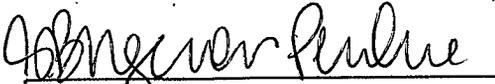
transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "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.

11. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

For the Commission



For the Executive Director

6/15/2011

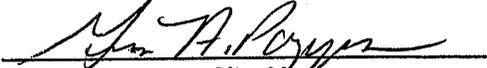
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of Mathis, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
Gus H. Pappas, City Manager

2/15/10  
Date

**Attachment A**  
**Docket Number: 2010-1043-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Mathis
<b>Payable Penalty Amount:</b>	Nine Thousand Nine Hundred Eighty Dollars (\$9,980)
<b>SEP Offset Amount:</b>	Nine Thousand Nine Hundred Eighty Dollars (\$9,980)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	City of Corpus Christi
<b>Project Name:</b>	<i>Wetland Construction, Habitat Enhancements, and Land Acquisition at the Oso Conservation Interpretive Park</i>
<b>Location of SEP:</b>	Nueces County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **City of Corpus Christi** to be used for the *Wetland Construction, Habitat Enhancements, and Land Acquisition at the Oso Conservation Interpretive Park* as set forth in an agreement between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will assist in developing the park and the nature center building to the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design (LEED) Green Building Rating System™) standards.

1) Wetland Construction and Drainage Improvements - The Third-Party Recipient shall use the SEP Offset Amount to construct wetlands as a best management practice for stormwater control. A drainage ditch transects the Property and discharges directly into Oso Bay. The Third-Party Recipient shall construct wetlands so that water in the drainage ditch discharges into the wetlands prior to it entering Oso Bay. Construction of the wetlands must include appropriate contouring, elevations, plantings and water inflow to ensure that the wetlands achieve and maintain functionality. The Third-Party Recipient may also modify other portions of the drainage ditch to enhance stormwater control. By entering into this Agreement, The Third-Party Recipient certifies that it is not required to perform these actions under its stormwater control permit.

2) Habitat Restoration and Management - The Third-Party Recipient shall use the SEP Offset Amount to enhance habitats by restoring degraded wetlands and controlling and removing invasive species. The Property is largely former pasture land that borders on Oso Bay. The former rangeland harbors both non-indigenous species, such as Bermuda grass, and

indigenous species, such as Mesquite and Huisache, that can become invasive and affect habitat functionality. The Third-Party Recipient shall control/remove the invasive species in an environmentally protective manner. Wetland restoration is needed because of past modifications to the landscape (construction of the drainage ditch and grazing) that have negatively affected existing wetlands. The Third-Party Recipient shall re-contour, replant, and perform other activities on these existing wetlands as necessary to restore or enhance the functionality of the wetlands.

3) Acquisition of Additional Land - The Third-Party Recipient shall use the SEP Offset Amount to acquire tracts of land adjacent to the Property. The Third-Party Recipient shall ensure that any land acquired with the SEP Offset Amount has high conservation values, becomes a part of the Oso Conservation Interpretive Park soon after acquisition; and is preserved in perpetuity through a conservation easement approved by the TCEQ.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state, and local governmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that there is no prior commitment to make this contribution and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

Constructed wetlands, used as a best management practice for stormwater control, will reduce pollutant loading such as oil and grease, nitrogen and bacteria, and floatable trash that can enter into Oso bay.

Restoration of degraded wetlands and the removal of invasive species will return the property to ecological functionality. Wetlands are known for providing habitat for wildlife, filtering pollutants, and retaining stormwater, as well as providing other ecological services.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of the SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

City of Corpus Christi  
Attention: City Manager  
1201 Leopard Street  
Corpus Christi, TX 78401

### 3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
PO Box 13087  
Austin, Texas 78711-3087

### 4. Failure to Fully Perform

If Respondent does not perform its obligations under the SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

Respondent shall make the check payable to the "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
PO Box 13088  
Austin, Texas 78711-3088

### 5. Publicity

Any public statements concerning the SEP made by or on behalf of Respondent must include a clear statement that the **Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include but are not limited to advertising, public relations, and press releases.

### 6. Clean Texas Program

Respondent shall not include the SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

### 7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.