

**Executive Summary – Enforcement Matter – Case No. 43372**  
**City of Follett**  
**RN101409514**  
**Docket No. 2012-0172-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

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

Follett Municipal Water System, located at the intersection of Farmer Street and Pryor Avenue, Follett, Lipscomb County

**Type of Operation:**

Public water supply system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 10, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,278

**Amount Deferred for Expedited Settlement:** \$0

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

**Total Paid to General Revenue:** \$1,278

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

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

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***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** December 5, 2011

**Date(s) of NOE(s):** December 15, 2011

***Violation Information***

1. Failed to timely submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director (“ED”) each quarter by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to mail or directly deliver one copy of the consumer confidence reports (“CCRs”) to each bill paying customer by July 1 of each year and failed to submit to the ED by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 30 days:
  - i. Update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly performed, including the timely submittal of signed and certified DLQORs; and
  - ii. Mail or directly deliver one copy of the 2011 CCR to each bill paying customer and submit to the TCEQ a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data.
- b. Within 45 days, submit written certification of compliance with Ordering Provisions a.i. and a.ii.;
- c. Within 90 days, begin submitting DLQORs to the ED each quarter by the tenth day of the month following the end of the quarter;

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d. Within 195 days, submit written certification of compliance with Ordering Provision c.; and

e. The certification of compliance required by Ordering Provisions b. and d. shall be notarized by a State of Texas Notary Public and include certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

***Litigation Information***

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

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

**SOAH Referral Date:** N/A

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

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09 , (254) 761-3034; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Robert Williamson, City Manager, City of Follett, P.O. Box 216, Follett, Texas 79034

The Honorable Kevin Wynn, Mayor, City of Follett, P.O. Box 216, Follett, Texas 79034

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	3-Jan-2012	<b>Screening</b>	18-Jan-2012	<b>EPA Due</b>	31-Dec-2011
	<b>PCW</b>	18-Jan-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Follett	
<b>Reg. Ent. Ref. No.</b>	RN101409514	
<b>Facility/Site Region</b>	1-Amarillo	<b>Major/Minor Source</b> Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43372	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2012-0172-PWS-E	<b>Order Type</b>	Findings	
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Heather Brister	
		<b>EC's Team</b>	Enforcement Team 1	
<b>Admin. Penalty \$ Limit Minimum</b>		\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

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

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

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

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

**Notes**

**Culpability**   Enhancement **Subtotal 4**

**Notes**

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

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

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 18-Jan-2012

Docket No. 2012-0172-PWS-E

PCW

Respondent City of Follett

Policy Revision 2 (September 2002)

Case ID No. 43372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Heather Brister

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	8	40%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 42%

#### >> 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

Enhancement for eight NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 18-Jan-2012

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PCW

Respondent City of Follett

Policy Revision 2 (September 2002)

Case ID No. 43372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description

Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, at the time of the record review, it was documented that the Respondent did not submit DLQORs for the fourth quarter of 2009 through the second quarter of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 7

647 Number of violation days

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

Violation Base Penalty \$700

Seven single events are recommended, calculated for the quarters in which the reports were not submitted.

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 \$700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$356

Violation Final Penalty Total \$994

This violation Final Assessed Penalty (adjusted for limits) \$994

# Economic Benefit Worksheet

**Respondent** City of Follett  
**Case ID No.** 43372  
**Reg. Ent. Reference No.** RN101409514  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** 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	\$250	10-Jan-2010	30-Sep-2012	2.72	\$34	n/a	\$34
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**

Estimated cost to update the Facility's operational guidance and to conduct employee training to ensure that all DLQORs are submitted to the TCEQ in a timely manner. Date required is the date the first report was due. Final date is the anticipated 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]	\$287	10-Jan-2010	10-Jul-2011	2.41	\$35	\$287	\$322
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided costs include the estimated amount to prepare and submit DLQORs for the seven quarters in which they were not submitted (\$41 per quarter), calculated from the date that the report for the fourth quarter of 2009 was due to the date that the report for the second quarter of 2011 was due.

Approx. Cost of Compliance

\$537

**TOTAL**

\$356

Screening Date 18-Jan-2012

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PCW

Respondent City of Follett

Policy Revision 2 (September 2002)

Case ID No. 43372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers for years 2009 and 2010, nor did the Respondent submit the CCRs or the required certification to the Executive Director for years 2009 and 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 730

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

Violation Base Penalty \$200

Two single events are recommended, one for each CCR not submitted.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$397

Violation Final Penalty Total \$284

This violation Final Assessed Penalty (adjusted for limits) \$284

# Economic Benefit Worksheet

**Respondent** City of Follett  
**Case ID No.** 43372  
**Req. Ent. Reference No.** RN101409514  
**Media Violation No.** Public Water Supply  
 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$362	1-Jul-2010	1-Jul-2011	1.92	\$35	\$397
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to produce copies of the CCR (\$50/year) and mail or directly deliver the reports to customers of the water supply (\$0.50/212 customers/2009 and 2010) and to deliver a copy and certification of delivery to the TCEQ (\$25/2009 and 2010), calculated from the due date of the 2009 CCR to the due date of the 2010 CCR.

Approx. Cost of Compliance

\$362

**TOTAL**

\$397

# Compliance History

Customer/Respondent/Owner-Operator:	CN600737811	City Of Follett	Classification: AVERAGE	Rating: 5.09
Regulated Entity:	RN101409514	FOLLETT MUNICIPAL WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		1480003
	WATER LICENSING	LICENSE		1480003
Location:	Located at the intersection of Farmer Street and Pryor Avenue, Follett, Lipscomb County, Texas			
TCEQ Region:	REGION 01 - AMARILLO			
Date Compliance History Prepared:	January 17, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 17, 2007 to January 17, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Heather Brister	Phone:	(254) 761-3034	

## 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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. N/A
- B. Any criminal convictions of the state of Texas and the federal government. N/A
- C. Chronic excessive emissions events. N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 04/16/2007 (543571)
- 2 11/13/2008 (706774)
- 3 11/13/2008 (707985)
- 4 04/07/2010 (796657)
- 5 10/05/2011 (951887)
- 6 10/18/2011 (970851)
- 7 10/18/2011 (970863)
- 8 10/18/2011 (970869)
- 9 10/18/2011 (970886)
- 10 10/18/2011 (970895)
- 11 10/18/2011 (970904)
- 12 12/08/2011 (970909)
- 13 12/22/2010 (970913)
- 14 12/22/2011 (974255)

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

Date:	03/30/2007 (543571)	CN600737811	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 290, SubChapter D 290.43(e)			
Description:	Failure to provide an intruder resistant fence around the elevated storage tank.			
Date:	12/22/2010 (970913)	CN600737811	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 290, SubChapter H 290.271(b) 30 TAC Chapter 290, SubChapter H 290.274(a)			
Description:	This system did not deliver the annual Consumer Confidence Report (CCR) for 2009 to its bill-paying customers.			
Self Report?	NO		Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter H 290.274(c)			
Description:	This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2009 CCR year to the TCEQ.			
Date:	10/18/2011 (970886)	CN600737811	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A) 30 TAC Chapter 290, SubChapter F 290.110(f)(2) 30 TAC Chapter 290, SubChapter F 290.110(f)(3)			
Description:	This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010.			
Date:	10/18/2011 (970909)	CN600737811		

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2009.

Date: 10/18/2011 (970869) CN600737811

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

Date: 10/18/2011 (970904) CN600737811

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2010.

Date: 10/18/2011 (970863) CN600737811

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2011.

Date: 10/18/2011 (970851) CN600737811

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2011.

Date: 10/18/2011 (970895) CN600737811

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2010.

- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF FOLLETT  
RN101409514**

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

**AGREED ORDER  
DOCKET NO. 2012-0172-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Follett (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply system located at the intersection of Farmer Street and Pryor Avenue, in Follett, Lipscomb County, Texas (the “Facility”) that has approximately 212 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on December 5, 2011, TCEQ staff documented that the Respondent did not submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, the Respondent failed to submit DLQORs from the fourth quarter of 2009 through the second quarter of 2011.
3. During a record review conducted on December 5, 2011, TCEQ staff documented that the Respondent did not mail or directly deliver the Consumer Confidence Reports ("CCRs") to the Facility's customers for years 2009 and 2010, nor did the Respondent submit the CCRs or the required certification to the Executive Director for years 2009 and 2010.
4. The Respondent received notice of the violations on December 19, 2011.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to timely submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand Two Hundred Seventy-Eight Dollars (\$1,278) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Two Hundred Seventy-Eight Dollar (\$1,278) administrative penalty.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Two Hundred Seventy-Eight Dollars (\$1,278) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Follett, Docket No. 2012-0172-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:

- i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly performed, including the timely submittal of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110; and
- ii. Mail or directly deliver one copy of the 2011 CCR to each bill paying customer and submit to the TCEQ a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in accordance with 30 TEX. ADMIN. CODE §§ 290.271 and 290.274. The copy of the CCR and the certification shall be mailed to:

CCR Coordinator  
Water Supply Division, MC-155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

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

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i and 2.a.ii, in accordance with Ordering Provision No. 2.e below;
- c. Within 90 days after the effective date of this Agreed Order, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

Water Supply Division, MC-155  
Attn: DLQOR Coordinator  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

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

- d. Within 195 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c, in accordance with Ordering Provision No. 2.e below; and
- e. The certification of compliance required by Ordering Provision Nos. 2.b and 2.d, shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who

manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Amarillo Regional Office  
Texas Commission on Environmental Quality  
3918 Canyon Drive  
Amarillo, Texas 79109-4933

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
For the Executive Director

8/24/12  
Date

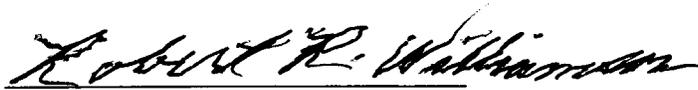
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Follett. I am authorized to agree to the attached Agreed Order on behalf of the City of Follett, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

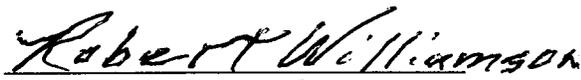
In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

6-11-2012

Date



Name (Printed or typed)

City mgr.

Title

Authorized Representative of  
City of Follett

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.