

Executive Summary – Enforcement Matter – Case No. 46783  
City of Texarkana  
RN101200665  
Docket No. 2013-0881-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:**

Texarkana Water Utilities, 2700 New Boston Road, Texarkana, Bowie County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 1, 2013

**Comments Received:** No

*Penalty Information*

**Total Penalty Assessed:** \$18,850

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

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

**Total Paid to General Revenue:** \$545

**Total Due to General Revenue:** \$18,305

Payment Plan: 35 payments of \$523 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

*Investigation Information*

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

**Complaint Information:** N/A

**Date(s) of Investigation:** March 6, 2013

**Date(s) of NOE(s):** April 26, 2013

**Executive Summary – Enforcement Matter – Case No. 46783**  
**City of Texarkana**  
**RN101200665**  
**Docket No. 2013-0881-PWS-E**

***Violation Information***

1. Failed maintain the Facility's clearwells, ground storage tanks, standpipes, and elevated tanks so that they are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(8)].
2. Failed to provide a treatment plant capacity of 0.6 gallon per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
3. Failed to have all backflow prevention assemblies tested on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications [30 TEX. ADMIN. CODE § 290.44(h)(4)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On August 6, 2013, Respondent submitted compliance documentation demonstrating that the following nine backflow prevention assemblies have been tested: 102 Cheyenne Place, 3 Irongate Drive, 3 Silverleaf Lane, 3506 Wood Ridge Drive, 4009 Airline Drive, 4112 Pecos Avenue, 6501 North Park Road, 1200 I-30, and 315 Main Street.

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 90 days, ensure that all backflow prevention assembly devices are tested on an annual basis, including but not limited to having the 31 backflow prevention assembly devices tested by a recognized backflow prevention assembly tester and certify that the 31 assemblies are operating within specifications.
- b. Within 105 days, submit written certification of compliance with Ordering Provision a.
- c. Within 180 days:
  - i. Refurbish or replace the 3 million gallon clearwell, the I-30 elevated tank, and the Liberty Eylau elevated tank, so that the interior and exterior meets AWWA standards;
  - ii. Refurbish or replace the City of Hooks ground storage tank ("GST"), the City of Wake Village GST, the City of Boston GST, the City of Dekalb GST, the City of Avery tank, and the City of Annona tank GST, so that the exterior meets AWWA standards; and

**Executive Summary – Enforcement Matter – Case No. 46783**  
**City of Texarkana**  
**RN101200665**  
**Docket No. 2013-0881-PWS-E**

iii. Provide a treatment plant capacity of 0.6 gpm per connection or submit a request for an exception.

d. Within 195 days, submit written certification of compliance with Ordering Provisions c.i through c.iii.

e. Within 270 days, submit written certification demonstrating that either the exception has been approved or that a treatment plant capacity of 0.6 gpm is being provided.

***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:** Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Bob Bruggeman, Mayor, City of Texarkana, P.O. Box 2008, Texarkana, Texas 75504

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	29-Apr-2013	Screening	1-May-2013	EPA Due	
	PCW	1-May-2013				

## RESPONDENT/FACILITY INFORMATION

Respondent	City of Texarkana		
Reg. Ent. Ref. No.	RN101200665		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

## CASE INFORMATION

Enf./Case ID No.	46783	No. of Violations	3
Docket No.	2013-0881-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

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

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

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

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

Notes

**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 1-May-2013

Docket No. 2013-0881-PWS-E

PCW

Respondent City of Texarkana

Policy Revision 2 (September 2002)

Case ID No. 46783

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101200665

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

#### >> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one agreed order with denial.

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

Screening Date 1-May-2013

Docket No. 2013-0881-PWS-E

PCW

Respondent City of Texarkana

Policy Revision 2 (September 2002)

Case ID No. 46783

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101200665

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(8)

Violation Description

Failed to maintain the Facility's clearwells, ground storage tanks, standpipes, and elevated tanks so that they are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, the Investigator documented the following tank maintenance issues: 1) The interior walls and roof plate concrete was cracking and rebar was exposed on the left 3 million gallon clearwell at the I-30 site; 2) The external coating had blistering, the internal roof plates had heavy corrosion and the internal side walls had areas of severe corrosion on the I-30 elevated tank; and 3) The Interior was rusted on the Liberty Eylau elevated tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain the clearwells, ground storage tanks, standpipes, and elevated tanks in accordance with AWWA standards could allow significant amounts of contaminants to enter the water supply which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

36 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$750

Three quarterly events are recommended (one event per tank or clearwell) from the date of the investigation, March 6, 2013, to the date of screening, May 1, 2013.

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26,523

Violation Final Penalty Total \$975

This violation Final Assessed Penalty (adjusted for limits) \$975

# Economic Benefit Worksheet

**Respondent** City of Texarkana  
**Case ID No.** 46783  
**Reg. Ent. Reference No.** RN101200665  
**Media** Public Water Supply  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$75,000	14-May-2009	1-Jun-2014	5.05	\$1,263	\$25,260	\$26,523
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 replace or refurbish the 3 million gallon clearwell and elevated tank at the I-30 site, and the Liberty Eylau elevated tank, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$75,000

**TOTAL**

\$26,523

Screening Date 1-May-2013

Docket No. 2013-0881-PWS-E

PCW

Respondent City of Texarkana

Policy Revision 2 (September 2002)

Case ID No. 46783

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101200665

Media [Statute] Public Water Supply

Enf. Coordinator Eplfario Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(2)(B) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a treatment plant capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the minimum capacity required for the retail connections from Arkansas and Texas is 31,660 (including 6,801 connections served by 278 master meters) times 0.6 gpm per connection, which equals 27.354 million gallons ("MG") per day. The capacity requirement for the 15 wholesale customers is based on 0.6 gpm per connection (19,225 connections), which equals 16.610 million gallons per day ("MGD"). The combined minimum capacity based on the retail and wholesale connections is 43.964 MGD. The current plant capacities are 15.120 MGD from Millwood and 18.000 MGD from Wright Patman, which equals 33.120 MGD, which is a 24.7% deficiency.

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	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes

Failure to provide adequate treatment plant capacity could cause customers to be exposed to low pressures and outages allowing a significant amount of contaminants to enter the water supply, which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 36

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, March 6, 2013, to the date of screening, May 1, 2013.

Good Faith Efforts to Comply

	0.0% Reduction	\$0
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x (mark with x)	

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Estimated EB Amount \$52,884

Statutory Limit Test

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

# Economic Benefit Worksheet

**Respondent** City of Texarkana  
**Case ID No.** 46783  
**Reg. Ent. Reference No.** RN101200665  
**Media** Public Water Supply  
**Violation No.** 2

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$250,000	25-May-2011	1-Jun-2014	3.02	\$2,518	\$50,365	\$52,884
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 provide adequate treatment plant capacity, calculated from the date of the investigation when the violation was first observed to the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250,000

**TOTAL**

\$52,884

Screening Date 1-May-2013

Docket No. 2013-0881-PWS-E

PCW

Respondent City of Texarkana

Policy Revision 2 (September 2002)

Case ID No. 46783

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101200665

Media [Statute] Public Water Supply

Enf. Coordinator Eplfano Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8)

Violation Description

Failed to maintain the Facility's storage tanks so that they are painted, disinfected, and maintained in strict accordance with current AWWA standards. Specifically, the investigator documented the following member cities' tanks had the following: 1) The City of Hooks ground storage tank ("GST") had concrete that was flaking, low spots in the roof and had cracks on the walls of the tank, 2) The City of Wake Village GST had concrete that was flaking and cracks on the walls of the tank, 3) The City of New Boston GST had concrete that was flaking, leaks, cracks on the side and top of the GST and chunks of concrete missing, 4) The City of Dekalb GST had concrete that was flaking and cracks in the wall and vent, 5) The City of Avery Tank had cracks in the wall, and 6) The City of Annona GST had low spots on the roof and cracks in the wall and roof.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to maintain the storage tanks in accordance with AWWA standards could allow significant amounts of contaminants to enter the water supply which would not exceed levels protective of human health

Adjustment \$750

\$250

Violation Events

Number of Violation Events 6 Number of violation days 36

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,500

Six quarterly events are recommended (one event per tank) from the date of the investigation, March 6, 2013, to the date of screening, May 1, 2013.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21,153

Violation Final Penalty Total \$1,950

This violation Final Assessed Penalty (adjusted for limits) \$1,950

# Economic Benefit Worksheet

**Respondent** City of Texarkana  
**Case ID No.** 46783  
**Reg. Ent. Reference No.** RN101200665  
**Media** Public Water Supply  
**Violation No.** 3

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100,000	25-May-2011	1-Jun-2014	3.02	\$1,007	\$20,146	\$21,153
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 repair the Facility's storage tanks, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100,000

**TOTAL**

\$21,153





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	29-Apr-2013	Screening	1-May-2013	EPA Due	
	PCW	13-Aug-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Texarkana
Reg. Ent. Ref. No.	RN101200665
Facility/Site Region	5-Tyler
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	46783	No. of Violations	1
Docket No.	2013-0881-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

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

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

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

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

Notes

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

Notes

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

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

Total EB Amounts	\$1,419
Approx. Cost of Compliance	\$1,240

\*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 1-May-2013

Docket No. 2013-0881-PWS-E

PCW

Respondent City of Texarkana

Policy Revision 3 (September 2011)

Case ID No. 46783

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101200665

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	2	10%
	Other written NOVs	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)**

>> Repeat Violator (Subtotal 3)

**Adjustment Percentage (Subtotal 3)**

>> Compliance History Person Classification (Subtotal 7)

**Adjustment Percentage (Subtotal 7)**

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one agreed order with denial

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

>> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%**

Screening Date 1-May-2013

Docket No. 2013-0881-PWS-E

PCW

Respondent City of Texarkana

Policy Revision 3 (September 2011)

Case ID No. 46783

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101200665

Media [Statute] Public Water Supply

Enf. Coordinator Eplfanio Villarreal

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(4)

Violation Description

Failed to have all backflow prevention assemblies tested on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications. Specifically, it was documented that 40 of approximately 900 reduced-pressure principle backflow prevention assemblies ("RPBA") on the system had not been tested within the last year.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to test backflow prevention assemblies on an annual basis to ensure the device is operating properly, could result in back siphonage of contaminants into the distribution system which would exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 40

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$12,000

Forty annual events are recommended (one event for each location that was not tested).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Ordinary

N/A

Notes

Before NOV NOV to EDPRP/Settlement Offer

X	(mark with x)

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

Violation Subtotal \$12,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,419

Violation Final Penalty Total \$15,600

This violation Final Assessed Penalty (adjusted for limits) \$15,600

# Economic Benefit Worksheet

**Respondent** City of Texarkana  
**Case ID No.** 46783  
**Reg. Ent. Reference No.** RN101200665  
**Media** Public Water Supply  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

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

Notes for DELAYED costs

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,240	21-Mar-2011	6-Mar-2013	2.88	\$179	\$1,240	\$1,419
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to test the 40 backflow prevention assemblies (\$31 x 40 assemblies), calculated for the 12 month period preceding the date of the investigation the violation was initially documented to the investigation date.

Approx. Cost of Compliance

\$1,240

**TOTAL**

\$1,419

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600335830, RN101200665, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600335830, City of Texarkana      **Classification:** SATISFACTORY      **Rating:** 2.43

**Regulated Entity:** RN101200665, TEXARKANA WATER UTILITIES      **Classification:** NOT APPLICABLE      **Rating:** N/A

**Complexity Points:** N/A      **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 2700 NEW BOSTON RD, TEXARKANA, BOWIE COUNTY, TX

**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION**      **WATER LICENSING LICENSE** 0190004  
0190004

**Compliance History Period:** September 01, 2007 to August 31, 2012      **Rating Year:** 2012      **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** May 01, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 01, 2008 to May 01, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Epi Villarreal

**Phone:** (361) 825-3425

**Site and Owner/Operator History:**

- 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** for #2, who is the current owner/operator?      N/A
- 4) If **YES** for #2, 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

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

- 1      Effective Date: 06/01/2009      ADMINORDER 2008-0632-PWS-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Exceeded the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") during the third quarter of 2007, based on a running annual average. Specifically, the running annual average for TTHM was 0.089 mg/L during the third quarter of 2007.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Exceeded the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") during the fourth quarter of 2007, based on a running annual average. Specifically, the running annual average for TTHM was 0.103 mg/L during the fourth quarter of 2007.



Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.111(h)  
Description: Failure to properly complete SWMORs.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)  
Description: Failure to perform annual inspections and testing by a certified backflow assembly tester on all backflow prevention assemblies.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(iii)  
Description: Failure to provide a rate of backwash flow not less than 20 inches of vertical rise per minute.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)  
Description: Failure to inspect ground and elevated storage tanks at least annually.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(F)  
Description: Failure to maintain records of Customer Service inspections.

**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

## Component Appendices

### Appendix A

#### All NOV's Issued During Component Period 5/1/2008 and 5/1/2013

1	Date:	06/09/2008	(681298)	CN600335830	Classification:	Moderate
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(d)(2)				
	Description:	Failure to maintain adequate residual disinfectant concentration.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)				
	Description:	Failure to maintain intruder resistant fence.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(1)				
	Description:	Failure to calibrate flow measuring devices and rate-of-flow controllers.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(5)				
	Description:	Failure to adequately enclose the raw water pump station in an intruder-resistant fence.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(6)				
	Description:	Failure to provide secondary containment for the alum and polymer day tanks.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(7)				
	Description:	Failure to provide drains for the clearwells.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(4)(B)				
	Description:	Failure to protect gas chlorine cylinders from adverse weather.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(f)(1)(C)				
	Description:	Failure to provide a level indicator for a chemical bulk storage facility.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(1)				
	Description:	Failure to provide adequate vents on all storage tanks.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)				
	Description:	Failure to establish a restricted zone of 200 foot radius from the raw water intake works.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)				
	Description:	Failure to maintain intruder resistant fence.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(6)				
	Description:	Failure to maintain all appurtenances in a watertight condition.			Classification:	Minor
	Self Report?	NO				
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)				
	Description:	Failure to maintain the walls of the sedimentation basins and filters.			Classification:	Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain catwalks over the sedimentation basins.

2

Date: 07/07/2009 (759531) CN600335830  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)  
Description: Failure to provide secondary containment for the alum and polymer day tanks.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)  
Description: Failure to establish a restricted zone of 200 foot radius from the raw water intake works.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain intruder resistant fence.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
Description: Failure to maintain all appurtenances in a watertight condition.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain the walls of the sedimentation basins and filters.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain catwalks over the sedimentation basins.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)  
Description: Failure to identify chemical feed lines.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)  
Description: Failure to verify the accuracy of the spectrophotometer used for measuring free ammonia at least once every 30 days.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)  
Description: Failure to have a vent fan installed on the top vent of the chlorine dioxide room.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to initiate maintenance and housekeeping practices.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)  
Description: Failure to design and fabricate a potable water storage facility that prevents ponding of water on the roof.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(I)  
Description: Failure to maintain storage tanks in according with AWWA standards.

3

Date: 06/15/2010 (825429) CN600335830  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)  
Description: Failure to provide secondary containment for the alum and polymer day tanks.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)  
Description: Failure to establish a restricted zone of 200 foot radius from the raw water intake works.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(6)  
Description: Failure to maintain all appurtenances in a watertight condition.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain the walls of the sedimentation basins and filters.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)  
Description: Failure to identify chemical feed lines.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)  
Description: Failure to verify the accuracy of the spectrophotometer used for measuring free ammonia at least once every 30 days.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)  
Description: Failure to have a vent fan installed on the top vent of the chlorine dioxide room.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to initiate maintenance and housekeeping practices.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)  
Description: Failure to design and fabricate a potable water storage facility that prevents ponding of water on the roof.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)  
Description: Failure to maintain storage tanks in accordance with AWWA standards.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: Failure to maintain backwash standpipe in accordance with AWWA standards.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to initiate maintenance and housekeeping practices.

4 Date: 10/27/2010 (857894) CN600335830  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)  
Description: Failure to identify chemical feed lines.  
Classification: Minor

Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to initiate maintenance and housekeeping practices.  
Classification: Minor

Self Report? NO

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

Description: Failure to initiate maintenance and housekeeping practices.

5 Date: 04/18/2011 (907011) CN600335830  
Classification: Minor

Self Report? NO

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

Description: Failure to properly maintain the intruder-resistant fence at the ground storage tank.

Classification: Minor

Self Report? NO

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

Description: Failure to properly maintain the intruder-resistant fence at the underground storage tank.

Classification: Minor

Self Report? NO

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

Description: Failure to provide the overflow pipe on each tank with a gap of not more than 1/16 inch.

6 Date: 07/25/2011 (941282) CN600335830  
Classification: Minor

Self Report? NO

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

Description: Failure to identify chemical feed lines.

Classification: Minor

Self Report? NO

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

Description: Failure to initiate maintenance and housekeeping practices.

Classification: Minor

Self Report? NO

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

Description: Failure to initiate maintenance and housekeeping practices.

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)

Description: Failure to provide the minimum production capacity.

Classification: Minor

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to maintain member cities' storage tanks in accordance with AWWA standards.

Classification: Minor

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter F 290.111(h)

Description: Failure to properly complete SWMORs.

7\* Date: 11/22/2011 (958292) CN600335830  
Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)

Description: Failure to provide the minimum production capacity.

8\* Date: 05/04/2012 (997172) CN600335830  
Classification: Minor

Self Report? NO

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

Description: Failure to maintain the walls of the sedimentation basins and filters.

Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(I)  
 Description: Failure to maintain storage tanks in according with AWWA standards.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to maintain backwash standpipe in accordance with AWWA standards.  
 Classification: Moderate

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
 Description: Failure to provide the minimum production capacity.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(h)  
 Description: Failure to properly complete SWMORs.  
 Classification: Moderate

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)  
 Description: Failure to perform annual inspections and testing by a certified backflow assembly tester on all backflow prevention assemblies.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(iii)  
 Description: Failure to provide a rate of backwash flow not less than 20 inches of vertical rise per minute.  
 Classification: Minor

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

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)  
 Description: Failure to inspect ground and elevated storage tanks at least annually.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(F)  
 Description: Failure to maintain records of Customer Service inspections.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(I)(4)  
 Description: Failure to comply with the provisions of a written exemption.

9 Date: 12/14/2012 (1041956) CN600335830  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure to maintain the walls of the sedimentation basins and filters.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(I)  
 Description: Failure to maintain storage tanks in according with AWWA standards.  
 Classification: Moderate

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
 Description: Failure to provide the minimum production capacity.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to maintain member cities' storage tanks in accordance with AWWA standards.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(h)  
 Description: Failure to properly complete SWMORs.  
 Classification: Moderate

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)  
 Description: Failure to perform annual inspections and testing by a certified backflow assembly tester on all backflow prevention assemblies.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(iii)  
 Description: Failure to provide a rate of backwash flow not less than 20 inches of vertical rise per minute.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)  
 Description: Failure to inspect ground and elevated storage tanks at least annually.  
 Classification: Minor

Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(F)  
 Description: Failure to maintain records of Customer Service inspections.

\* NOVs applicable for the Compliance History rating period 9/1/2007 to 8/31/2012

**Appendix B**

**All Investigations Conducted During Component Period May 01, 2008 and May 01, 2013**

Item 1	June 03, 2008**	(681298)
Item 2	July 07, 2009**	(759531)
Item 3	June 14, 2010**	(825429)
Item 4	October 20, 2010**	(857894)
Item 5	April 14, 2011**	(907011)
Item 6	July 22, 2011**	(941282)
Item 7	November 17, 2011**	(958292)
Item 8	May 03, 2012**	(997172)
Item 9	October 29, 2012	(1041956)
Item 10	April 23, 2013	(1076501)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2007 and 08/31/2012.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF TEXARKANA  
RN101200665

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

**AGREED ORDER**  
**DOCKET NO. 2013-0881-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 Texarkana ("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 located at 2700 New Boston Road in Texarkana, Bowie County, Texas (the "Facility") that has approximately 16,504 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on March 6, 2013, TCEQ staff documented the following tank maintenance issues: 1) The interior walls and roof plate concrete was cracking and rebar was exposed on the left 3 million gallon clearwell at the I-30 site; 2) The external coating had blistering, the internal roof plates had heavy corrosion and the internal side walls had areas of severe corrosion on the I-30 elevated tank; and 3) The interior was rusted on the Liberty Eylau elevated tank.
3. During an investigation conducted on March 6, 2013, TCEQ staff documented that the minimum capacity required for the retail connections from Arkansas and Texas is 31,660 (including 6,801 connections served by 278 master meters) times 0.6 gallons per minute ("gpm") per connection, which equals 27.354 million gallons ("MG"). The capacity requirement for the 15 wholesale customers is based on 0.6 gpm per connection(19,225 connections) which equals 16.610 million gallons per day ("MGD"). The combined minimum capacity based on the retail and wholesale connections is now 43.964 MGD. The current plant capacities are 15.120 MGD from Milwood and 18.000 MGD from Wright Patman, which equals 33.120 MGD, which is a 24.7% deficiency.
4. During an investigation on March 6, 2013, TCEQ staff documented that the following member cities' tanks had the following: 1) The City of Hooks ground storage tank ("GST") had concrete that was flaking, low spots in the roof and had cracks on the walls of the tank, 2) The City of Wake Village GST had concrete that was flaking and cracks on the walls of the tank, 3) The City of New Boston GST had concrete that was flaking, leaks, cracks on the side and top of the GST and chunks of concrete missing, 4) The City of Dekalb GST had concrete that was flaking and cracks in the wall and vent, 5) The City of Avery Tank had cracks in the wall, and 6) The City of Annona GST had low spots on the roof and cracks in the wall and roof.
5. During an investigation on March 6, 2013, TCEQ staff documented that 40 of approximately 900 reduced-pressure principle backflow prevention assemblies ("RPBA") on the system had not been tested within the last year.
6. The Respondent received notice of the violations on May 1, 2013.
7. The Executive Director recognizes that on August 6, 2013, the Respondent submitted compliance documentation demonstrating that the following nine RPBA's have been tested: 102 Cheyenne Place, 3 Irongate Drive, 3 Silverleaf Lane, 3506 Wood Ridge Drive, 4009 Airline Drive, 4112 Pecos Avenue, 6501 North Park Road, 1200 I-30, and 315 Main Street.

## 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 and 4, the Respondent failed maintain the Facility's clearwells, ground storage tanks, standpipes, and elevated tanks so that they are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide a treatment plant capacity of 0.6 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to have all backflow prevention assemblies tested on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4).
5. 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.
6. An administrative penalty in the amount of Eighteen Thousand Eight Hundred Fifty Dollars (\$18,850) 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 Five Hundred Forty-Five Dollars (\$545) of the administrative penalty. The remaining amount of Eighteen Thousand Three Hundred Five Dollars (\$18,305) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Twenty-Three Dollars (\$523) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### 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 Eighteen Thousand Eight Hundred Fifty Dollars (\$18,850) as set forth in Section II, Paragraph 6 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 Texarkana, Docket No. 2013-0881-PWS-E" to:

Financial Administration Division, Revenue Operations 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 90 days after the effective date of this Agreed Order, ensure that all backflow prevention assembly devices are tested on an annual basis, including but not limited to having the 31 backflow prevention assembly devices tested by a recognized backflow prevention assembly tester and certify that the 31 assemblies are operating within specifications, in accordance with 30 TEX. ADMIN. CODE § 290.44;
  - b. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.d., below;
  - c. Within 180 days after the effective date of this Agreed Order:
    - i. Refurbish or replace the 3 million gallon clearwell, the I-30 elevated tank, and the Liberty Eylau elevated tank, so that the interior and exterior meets AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43;
    - ii. Refurbish or replace the City of Hooks GST, the City of Wake Village GST, the City of Boston GST, the City of Dekalb GST, the City of Avery tank, and the City of Annona GST, so that the exterior meets American Water

Works Association ("AWWA") standards, in accordance with 30 TEX. ADMIN. CODE § 290.43; and

- iii. Provide a treatment plant capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; or submit a request for an exception pursuant to 30 TEX. ADMIN. CODE § 290.39. All exception requests shall be submitted to:

Technical Review and Oversight Team  
Water Supply Division, MC 159  
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.i. through 2.c.iii., as described in Ordering Provision No. 2.e., below;
- e. Within 270 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate that either the exception has been approved or that a treatment plant capacity of 0.6 gpm is being provided. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. 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

12/16/13  
Date

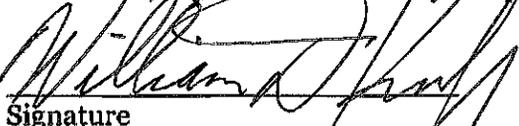
I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Texarkana. I am authorized to agree to the attached Agreed Order on behalf of City of Texarkana, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

I understand that by entering into this Agreed Order, City of Texarkana 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

9/26/2013  
Date

WILLIAM D. KING, JR.  
Name (Printed or typed)  
Authorized Representative of  
City of Texarkana

EXECUTIVE DIRECTOR  
Title

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