

**Executive Summary – Enforcement Matter – Case No. 46631**

**City of Annona**

**RN101196640**

**Docket No. 2013-0723-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:**

City of Annona PWS, 101 Main Street, Red River 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:** October 25, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,060

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

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

**Total Paid to General Revenue:** \$106

**Total Due to General Revenue:** \$954

Payment Plan: 9 payments of \$106 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** \$74 and \$221

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

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** March 11, 2013

**Date(s) of NOE(s):** April 3, 2013

**Executive Summary – Enforcement Matter – Case No. 46631**

**City of Annona**

**RN101196640**

**Docket No. 2013-0723-PWS-E**

***Violation Information***

1. Failed to 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 the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to timely submit a DLQOR to the ED each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
3. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethane ("TTHM"), based on the running annual average, and failed to provide public notification regarding the failure to comply with the MCL for TTHMs [30 TEX. ADMIN. CODE §§ 290.113(f)(4) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
4. Failed to provide public notification regarding the failure to comply with the MCL for TTHMs [30 TEX. ADMIN. CODE § 290.122(b)(2)(A)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On April 29, 2013, Respondent submitted the DLQORs for the first quarter of 2011 through the fourth quarter of 2012.

**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 accomplished, including the timely submittal of signed and certified DLQORs; and

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility.

b. Within 45 days, submit written certification demonstrating 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. This provision will be satisfied upon two consecutive quarters of compliant reporting.

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City of Annona  
RN101196640  
Docket No. 2013-0723-PWS-E**

d. Within 285 days, submit written certification demonstrating compliance with Ordering Provision c.

e. Within 365 days, return to compliance with the running annual average MCL for TTHM.

f. Within 380 days, submit written certification demonstrating compliance with Ordering Provision e.

***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:** Sam Keller, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2678; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable George H. English, Mayor, City of Annona, P.O. Box 107, Annona, Texas 75550

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	8-Apr-2013	<b>Screening</b>	10-Apr-2013	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	2-May-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Annona
<b>Reg. Ent. Ref. No.</b>	RN101196640
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	46631	<b>No. of Violations</b>	2
<b>Docket No.</b>	2013-0723-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>	Sam Keller
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

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

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

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

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

Notes: Enhancement for six NOVs with same/similar violations and one NOV with dissimilar violations.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

**Screening Date** 10-Apr-2013

**Docket No.** 2013-0723-PWS-E

**PCW**

**Respondent** City of Annona

Policy Revision 2 (September 2002)

**Case ID No.** 46631

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101196640

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Sam Keller

### 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> )	6	30%
	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%
<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)** 32%

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

N/A

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

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

Satisfactory Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

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

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 32%

Screening Date 10-Apr-2013

Docket No. 2013-0723-PWS-E

PCW

Respondent City of Annona

Policy Revision 2 (September 2002)

Case ID No. 46631

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196640

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

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 the quarter. Specifically, the Respondent did not submit DLQORs for the third and fourth quarters of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10%
100% of the rule requirement was not met.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 183

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

Violation Base Penalty \$200

Two quarterly events are recommended (one for each quarter the report was 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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$264

This violation Final Assessed Penalty (adjusted for limits) \$264

## Economic Benefit Worksheet

**Respondent** City of Annona  
**Case ID No.** 46631  
**Reg. Ent. Reference No.** RN101196640  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	11-Mar-2013	31-Dec-2013	0.81	\$2	n/a	\$2
Training/Sampling	\$100	11-Mar-2013	31-Dec-2013	0.81	\$4	n/a	\$4
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 costs include the estimated amount to update the Facility's operational guidance and ensure the timely submittal of signed and certified quarterly DLQORs, calculated from the record review date to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$45	10-Oct-2010	10-Jan-2011	1.17	\$3	\$45	\$48
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided costs include the estimated amount to prepare and submit DLQORs (\$22.50 per report x 2 missed reports). Date required is the date the first report was due and the final date is the date the last report was due.

Approx. Cost of Compliance \$190

**TOTAL** \$53

Screening Date 10-Apr-2013

Docket No. 2013-0723-PWS-E

PCW

Respondent City of Annona

Policy Revision 2 (September 2002)

Case ID No. 46631

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101196640

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 2

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

Violation Description Failed to timely submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not timely submit DLQORs for the first and second quarters of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 2 180 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$20

Two single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$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 \$20

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$26

This violation Final Assessed Penalty (adjusted for limits) \$100

## Economic Benefit Worksheet

**Respondent** City of Annona  
**Case ID No.** 46631  
**Reg. Ent. Reference No.** RN101196640  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$45	10-Apr-2011	29-Apr-2013	2.05	\$0	\$6	\$6
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 costs include the estimated amount to submit DLQORs (\$22.50 per report x 2 missed reports). Date required is the date the first report was due and the final date is the date the reports were submitted. The other delayed costs of compliance for this violation are associated with the Economic Benefit for Violation No. 1 on the Revision 2 PCW.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

**TOTAL**

\$6



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	8-Apr-2013	<b>Screening</b>	10-Apr-2013	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	2-May-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Annona
<b>Reg. Ent. Ref. No.</b>	RN101196640
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	46631	<b>No. of Violations</b>	3
<b>Docket No.</b>	2013-0723-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>	Sam Keller
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

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

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

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

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

Notes: Enhancement for six NOV with same/similar violations and one NOV with dissimilar violations.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

**Screening Date** 10-Apr-2013

**Docket No.** 2013-0723-PWS-E

**PCW**

**Respondent** City of Annona

Policy Revision 3 (September 2011)

**Case ID No.** 46631

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101196640

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Sam Keller

### 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> )	6	30%
	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%
<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)** 32%

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

N/A

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

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

Satisfactory Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

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

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 32%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 32%

Screening Date 10-Apr-2013

Docket No. 2013-0723-PWS-E

PCW

Respondent City of Annona

Policy Revision 3 (September 2011)

Case ID No. 46631

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101196640

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 1

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

Violation Description Failed to timely 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 the quarter. Specifically, the Respondent did not timely submit DLQORs for the third quarter of 2011 through the fourth quarter of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				X	1.0%
Less than 30% of the rule requirement was not met.					

Adjustment \$990

\$10

Violation Events

Number of Violation Events 6 Number of violation days 550

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

Violation Base Penalty \$60

Six single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$60

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$79

This violation Final Assessed Penalty (adjusted for limits) \$300

## Economic Benefit Worksheet

**Respondent** City of Annona  
**Case ID No.** 46631  
**Reg. Ent. Reference No.** RN101196640  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$135	10-Oct-2011	29-Apr-2013	1.55	\$1	\$14	\$15
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 costs include the estimated amount to submit DLQORs (\$22.50 per report x 6 missed reports). Date required is the date the first report was due and the final date is the date the reports were submitted. The other delayed costs of compliance for this violation are associated with the Economic Benefit for Violation No. 1 on the Revision 2 PCW.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$135

**TOTAL**

\$15

Screening Date 10-Apr-2013

Docket No. 2013-0723-PWS-E

PCW

Respondent City of Annona

Policy Revision 3 (September 2011)

Case ID No. 46631

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101196640

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.113(f)(4) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the running annual average and failed to provide public notification regarding the failure to comply with the MCL for TTHM. Specifically, the running annual average concentration for TTHM was 0.082 mg/L for the first quarter of 2012, 0.093 mg/L for the second quarter of 2012, 0.090 mg/L for the third quarter of 2012 and 0.102 mg/L for the fourth quarter of 2012; and public notice was not provided for the failure to comply with the MCL for TTHMs for the first through the third quarter of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Exceeding the MCL for TTHM caused the persons served by the Facility to be exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 Number of violation days 366

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

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$876

Violation Final Penalty Total \$198

This violation Final Assessed Penalty (adjusted for limits) \$198

## Economic Benefit Worksheet

**Respondent** City of Annona  
**Case ID No.** 46631  
**Reg. Ent. Reference No.** RN101196640  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	31-Mar-2012	1-Jul-2014	2.25	\$38	\$751	\$788
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	11-Mar-2013	1-Jul-2014	1.31	\$7	n/a	\$7
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 necessary to implement an alternative method of disinfection, calculated from the last day of the first quarter of non-compliance to the estimated date of compliance. The other delayed cost includes the estimated amount to implement procedures to ensure that public notice is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$75	4-May-2012	24-Dec-2012	1.56	\$6	\$75	\$81

**Notes for AVOIDED costs**

The avoided costs include the estimated amount to provide public notification (\$25 per notice x 3 missed notifications) for failure to comply with MCL for TTHMs, calculated for the period in which public notification was required.

Approx. Cost of Compliance

\$5,175

**TOTAL**

\$876

Screening Date 10-Apr-2013

Docket No. 2013-0723-PWS-E

PCW

Respondent City of Annona

Policy Revision 3 (September 2011)

Case ID No. 46631

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101196640

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.122(b)(2)(A)

Violation Description Failed to provide public notification regarding the failure to comply with the MCL for TTHM. Specifically, public notice was not provided for the failure to comply with the MCL for TTHMs for the first through the third quarter of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

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

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3 272 Number of violation days

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

Violation Base Penalty \$150

Three single events are recommended (one for each notice that was 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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$80

Violation Final Penalty Total \$198

This violation Final Assessed Penalty (adjusted for limits) \$198

## Economic Benefit Worksheet

**Respondent** City of Annona  
**Case ID No.** 46631  
**Reg. Ent. Reference No.** RN101196640  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

#### Notes for DELAYED costs

The delayed costs of compliance to implement procedures to ensure that public notice is posted and reported are associated with the Economic Benefit for Violation No. 2 on the Revision 3 PCW.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$75	14-Sep-2011	26-Mar-2012	1.45	\$5	\$75	\$80

#### Notes for AVOIDED costs

The avoided costs include the estimated amount to provide public notification (\$25 per notice x 3 missed notifications) for failure to comply with MCL for TTHMs, calculated for the period in which public notification was required.

Approx. Cost of Compliance

\$75

**TOTAL**

\$80



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600642136, RN101196640, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600642136, City of Annona	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	17.67
<b>Regulated Entity:</b>	RN101196640, City of Annona	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	101 MAIN STREET, RED RIVER COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 05 - TYLER				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1940004      WATER LICENSING LICENSE 1940004				

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	April 08, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	April 08, 2008 to April 08, 2013				

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

**Name:** Sam Keller      **Phone:** (512) 239-2678

## 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:

N/A

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/04/2012	(1076326)	CN600642136	
	Self Report?	NO		Classification:	Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 1Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2012 with a RAA of 0.082 mg/L.

- 2 Date: 07/09/2012 (1076326) CN600642136  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 2Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 2nd quarter of 2012 with a RAA of 0.093 mg/L.
- 3 Date: 09/25/2012 (1076326) CN600642136  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 3Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012 with a RAA of 0.090 mg/L.
- 4 Date: 12/14/2012 (1076326) CN600642136  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: TTHM DBP1 MCL PN 1Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 1st quarter of 2011.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: TTHM DBP1 MCL PN 2Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 2nd quarter of 2011.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: TTHM DBP1 MCL PN 3Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 3rd quarter of 2011.
- 5 Date: 12/18/2012 (1076326) CN600642136  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TTHM MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a RAA of 0.102 mg/L.
- 6 Date: 01/10/2013 (1041392) CN600642136  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)  
Description: Failure by the regulated entity, which purchases water and serves no more than 250 connections, to employ an operator who holds a Class "D" or higher license.
- 7 Date: 03/05/2013 (1076326) CN600642136  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: TTHM DBP1 MCL PN 1Q2012 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 1st quarter of 2012.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: TTHM DBP1 MCL PN 2Q2012 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level

for trihalomethanes during the 2nd quarter of 2012.

**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



- 6      Date: 12/14/2012      (1076326)      CN600642136
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: TTHM DBP1 MCL PN 1Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 1st quarter of 2011.
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: TTHM DBP1 MCL PN 2Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 2nd quarter of 2011.
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: TTHM DBP1 MCL PN 3Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 3rd quarter of 2011.
- 7      Date: 12/18/2012      (1076326)      CN600642136
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
- Description: TTHM MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a RAA of 0.102 mg/L.
- 8      Date: 01/10/2013      (1041392)      CN600642136
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
- Description: Failure by the regulated entity, which purchases water and serves no more than 250 connections, to employ an operator who holds a Class "D" or higher license.
- 9      Date: 03/05/2013      (1076326)      CN600642136
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: TTHM DBP1 MCL PN 1Q2012 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 1st quarter of 2012.
- Self Report? NO      Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)
- Description: TTHM DBP1 MCL PN 2Q2012 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the 2nd quarter of 2012.

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

**Appendix B**

**All Investigations Conducted During Component Period April 08, 2008 and April 08, 2013**

Item 1	July 17, 2008**	(685846)	For Informational Purposes Only
Item 2	August 05, 2009**	(748517)	For Informational Purposes Only
Item 3	April 13, 2011**	(902011)	For Informational Purposes Only
Item 4	February 26, 2013	(1059518)	For Informational Purposes Only
Item 5	March 27, 2013	(1076326)	For Informational Purposes Only
Item 6	April 04, 2013	(1076767)	For Informational Purposes Only

\* 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 ANNONA  
RN101196640**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2013-0723-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 Annona (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at 101 Main Street in Red River County, Texas (the "Facility") that has 163 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on March 11, 2013, TCEQ staff documented that the Respondent did not submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director for the third and fourth quarters of 2010.
3. During a record review conducted on March 11, 2013, TCEQ staff documented that the Respondent did not timely submit a DLQOR to the Executive Director for the first quarter of 2011 through the fourth quarter of 2012.
4. During a record review conducted on March 11, 2013, TCEQ staff documented that the running annual average concentration for total trihalomethanes ("TTHMs") was 0.082 mg/L for the first quarter of 2012, 0.093 mg/L for the second quarter of 2012, 0.090 mg/L for the third quarter of 2012 and 0.102 mg/L for the fourth quarter of 2012; and the Respondent did not provide public notice for the failure to comply with the Maximum Contaminant Level ("MCL") for the first through the third quarter of 2012.
5. During a record review conducted on March 11, 2013, TCEQ staff documented that the Respondent did not provide public notice regarding the failure to comply with the MCL for TTHMs for the first through the third quarter of 2011.
6. The Respondent received notice of the violations on April 12, 2013.
7. The Executive Director recognizes that the Respondent, on April 29, 2013, submitted the DLQORs for the first quarter of 2011 through the fourth quarter of 2012.

### **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 submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the 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 timely submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on the running annual average, and failed to provide

public notification regarding the failure to comply with the MCL for TTHMs, in violation of 30 TEX. ADMIN. CODE §§ 290.113(f)(4) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide public notification regarding the failure to comply with the MCL for TTHMs, in violation of 30 TEX. ADMIN. CODE § 290.122(b)(2)(A).
6. 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.
7. An administrative penalty in the amount of One Thousand Sixty Dollars (\$1,060) 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 One Hundred Six Dollars (\$106) of the administrative penalty. The remaining amount of Nine Hundred Fifty-Four Dollars (\$954) of the administrative penalty shall be payable in nine monthly payments of One Hundred Six Dollars (\$106) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payment shall 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 One Thousand Sixty Dollars (\$1,060) as set forth in Section II, Paragraph 7 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 Annona, Docket No. 2013-0723-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 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 accomplished, including the timely submittal of signed and certified DLQORs, as required by 30 TEX. ADMIN. CODE § 290.110; and
    - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.;
  - 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:

DLQOR Coordinator  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - d. Within 285 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.;
  - e. Within 365 days of the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and

- f. Within 380 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 compliance with Ordering Provision No. 2.e. 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:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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

*Jacymille Patricia Garcia*  
For the Executive Director

1.9.14  
Date

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

*George H English*  
Signature

9-10-2013  
Date

GEORGE H ENGLISH  
Name (Printed or typed)  
Authorized Representative of  
City of Annona

MAYOR  
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.