

Executive Summary – Enforcement Matter – Case No. 47673

City of Linden

RN101220986

Docket No. 2013-1775-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 Linden PWS, located at 104 Kildare Road, Linden, Cass 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: April 18, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,212

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,212

Total Due to General Revenue: \$0

Payment Plan: N/A

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: \$38

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 47673
City of Linden
RN101220986
Docket No. 2013-1775-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 25, 2005, February 21, 2013 and August 21, 2013

Date(s) of NOE(s): September 13, 2013

Violation Information

1. Failed to provide Facility records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(A)(i)(II)].
2. Failed to ensure that all backflow prevention assemblies are tested on an annual basis by a recognized backflow assembly tester who certifies that they are operating within specifications [30 TEX. ADMIN. CODE § 290.44(h)(4)].
3. Failed to ensure that the Facility's clearwells, ground storage tanks, standpipes and elevated tanks are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(8)].
4. Failed to obtain sanitary control easements that cover the land within 150 feet of the five wells [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].
5. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(I)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On October 15, 2013, the Respondent adopted a sanitary control easement ordinance.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, begin maintaining completed monthly water works operation records and maintenance records, including but not limited to: the amount of chemicals used each day;
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.;
- c. Within 60 days, begin maintaining an up-to-date plant operations manual for operator review and reference;

Executive Summary – Enforcement Matter – Case No. 47673
City of Linden
RN101220986
Docket No. 2013-1775-PWS-E

- d. Within 75 days, submit written certification demonstrating compliance with Ordering Provision c.;
- e. Within 90 days, ensure that all backflow prevention assembly devices are tested on an annual basis, including but not limited to having the Nexion Health Care, the Carwash, and the Justice Center backflow prevention assembly devices tested by a recognized backflow prevention assembly tester who certifies that these assemblies are operating within specifications;
- f. Within 105 days, submit written certification demonstrating compliance with Ordering Provision e.;
- g. Within 180 days, repair and refurbish or replace Tank No. 3 and the two elevated storage tanks so that they meet current AWWA standards; and
- h. Within 195 days, submit written certification demonstrating compliance with Ordering Provision g.

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 Clarence Burns, Mayor, City of Linden, P.O. Box 419, Linden, Texas 755663
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	16-Sep-2013	Screening	17-Sep-2013	EPA Due	
	PCW	17-Sep-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Linden				
Reg. Ent. Ref. No.	RN101220986				
Facility/Site Region	5-Tyler	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	47673	No. of Violations	2
Docket No.	2013-1775-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: Enhancement for one NOV with same/similar violations and one agreed order with a denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 17-Sep-2013

Docket No. 2013-1775-PWS-E

PCW

Respondent City of Linden

Policy Revision 2 (September 2002)

Case ID No. 47673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101220986

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>)	1	5%
	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) 25%

>> 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 one NOV with same/similar violations and one agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 17-Sep-2013

Docket No. 2013-1775-PWS-E

PCW

Respondent City of Linden

Policy Revision 2 (September 2002)

Case ID No. 47673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101220986

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description Failed to obtain sanitary control easements that cover the land within 150 feet of the five wells.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes Failure to have sanitary control easements could expose customers of the Facility to insignificant amounts of contaminants that do not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 5 Number of violation days 27

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

Violation Base Penalty \$250

Five single events are recommended.

Good Faith Efforts to Comply

10.0% Reduction \$25

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

Notes The Respondent achieved compliance on October 15, 2013.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Estimated EB Amount \$56

Statutory Limit Test

Violation Final Penalty Total \$288

This violation Final Assessed Penalty (adjusted for limits) \$288

Economic Benefit Worksheet

Respondent City of Linden
Case ID No. 47673
Reg. Ent. Reference No. RN101220986
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)	\$100	29-Sep-2005	15-Oct-2013	8.05	\$3	\$54	\$56
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 record sanitary control easements (\$20 per easement x 5 wells), calculated from the date the violation was initially documented to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$56

Screening Date 17-Sep-2013

Docket No. 2013-1775-PWS-E

PCW

Respondent City of Linden

Policy Revision 2 (September 2002)

Case ID No. 47673

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101220986

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.42(I)

Violation Description Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 27

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$109

Violation Final Penalty Total \$125

This violation Final Assessed Penalty (adjusted for limits) \$125

Economic Benefit Worksheet

Respondent City of Linden
Case ID No. 47673
Reg. Ent. Reference No. RN101220986
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$180	29-Sep-2005	1-Jun-2014	8.68	\$5	\$104	\$109
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 compile and maintain an up-to-date plant operations manual, calculated from the date the violation was initially documented to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$109



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	16-Sep-2013	Screening	17-Sep-2013	EPA Due	
	PCW	17-Sep-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Linden
Reg. Ent. Ref. No.	RN101220986
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	47673	No. of Violations	3
Docket No.	2013-1775-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** **\$610**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **25.0%** Enhancement **Subtotals 2, 3, & 7** **\$152**

Notes: Enhancement for one NOV with same/similar violations and one agreed order with a denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$33,880**
 Approx. Cost of Compliance **\$300,138**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$762**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$762**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$800**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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 **\$800**

Screening Date 17-Sep-2013

Docket No. 2013-1775-PWS-E

PCW

Respondent City of Linden

Policy Revision 3 (September 2011)

Case ID No. 47673

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101220986

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>)	1	5%
	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) 25%

>> 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 one NOV with same/similar violations and one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 17-Sep-2013

Docket No. 2013-1775-PWS-E

PCW

Respondent City of Linden

Policy Revision 3 (September 2011)

Case ID No. 47673

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101220986

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2) and (f)(3)(A)(i)(II)

Violation Description Failed to provide Facility records to Commission personnel at the time of the investigation. Specifically, it was documented that the following records were not provided: the amount of chemicals used daily.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1.0%

Matrix Notes At least 70% of the rule requirement was met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 Number of violation days 27

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

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3 Violation Final Penalty Total \$13

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

Economic Benefit Worksheet

Respondent City of Linden

Case ID No. 47673

Reg. Ent. Reference No. RN101220986

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	21-Feb-2013	1-May-2014	1.19	\$3	n/a	\$3
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 maintain Facility records, calculated from the date the violation was initially documented to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

TOTAL

\$3

Screening Date 17-Sep-2013

Docket No. 2013-1775-PWS-E

PCW

Respondent City of Linden

Policy Revision 3 (September 2011)

Case ID No. 47673

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101220986

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.44(h)(4)

Violation Description

Failed to ensure that all backflow prevention assemblies are tested on an annual basis by a recognized backflow assembly tester who certifies that they are operating within specifications. Specifically, it was documented that the backflow prevention devices at Nexion Health Care, the Carwash, and the Justice Center had not been tested within the last year.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Harm			Percent
Falsification	Major	Moderate	Minor	
				0.0%

Matrix Notes

Failure to test backflow prevention assemblies on an annual basis would not ensure the device is operating properly which could result in a back siphonage of contaminants into the distribution system which would exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3 365 Number of violation days

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

Violation Base Penalty \$450

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

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 \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$104

Violation Final Penalty Total \$563

This violation Final Assessed Penalty (adjusted for limits) \$563

Economic Benefit Worksheet

Respondent City of Linden
Case ID No. 47673
Reg. Ent. Reference No. RN101220986
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
<i>No commas or \$</i>							

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$93	21-Feb-2012	21-Aug-2013	2.42	\$11	\$93	\$104
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to test the backflow prevention assemblies, (\$31 x 3 assemblies) calculated for the 12 month period preceding the date of the investigation the violation was initially documented to the record review date.

Approx. Cost of Compliance \$93

TOTAL \$104

Screening Date 17-Sep-2013

Docket No. 2013-1775-PWS-E

PCW

Respondent City of Linden

Policy Revision 3 (September 2011)

Case ID No. 47673

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101220986

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

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

Violation Description Failed to ensure that the Facility's clearwells, ground storage tanks, standpipes and elevated tanks are painted, disinfected, and maintained in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, it was documented that ground storage tank no. 3 and the two elevated storage tanks needed to be repaired and repainted.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (5.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%). Matrix Notes: Failure to maintain the storage tank 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 \$950

\$50

Violation Events

Number of Violation Events 3 27 Number of violation days

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

Violation Base Penalty \$150

Three quarterly events are recommended (one event per tank), calculated from the date of the record review, August 21, 2013, to the date of screening, September 17, 2013.

Good Faith Efforts to Comply

Table for Good Faith Efforts: 0.0% Reduction, Before NOV, NOV to EDPRP/Settlement Offer, Extraordinary, Ordinary, N/A (marked 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 \$33,773

Violation Final Penalty Total \$188

This violation Final Assessed Penalty (adjusted for limits) \$188

Economic Benefit Worksheet

Respondent City of Linden
Case ID No. 47673
Reg. Ent. Reference No. RN101220986
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)	\$300,000	21-Feb-2013	1-Oct-2014	1.61	\$1,608	\$32,164	\$33,773
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 and repaint ground storage tank no. 3 and the two elevated storage tanks (\$100,000 per tank), calculated from the date the violation was initially documented to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300,000

TOTAL

\$33,773

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

PENDING Compliance History Report for CN600662449, RN101220986, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600662449, City of Linden **Classification:** SATISFACTORY **Rating:** 4.27

Regulated Entity: RN101220986, City of Linden **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 104 KILDARE ROAD, LINDEN, CASS COUNTY, TEXAS

TCEQ Region: REGION 05 - TYLER

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0340004

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: September 17, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 17, 2008 to September 17, 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: 06/20/2011 ADMINORDER 2010-2024-PWS-E (1660 Order-Agreed Order With Denial)
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
 - Description: Failure to maintain records of the dates dead-end mains were flushed.
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)
 - Description: Failure to have at least two operators who hold a Class "C" or higher groundwater license for a groundwater system serving more than 1,000 connections.
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
 - Description: Failure to provide the overflow pipe on the elevated storage tanks with a gravity-hinged and weighted cover.
 - Classification: Minor
 - Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to install a backflow prevention assembly or an air gap at all residences and establishments where an actual or potential contamination hazard exists.

Classification: Minor

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

Description: Failure to plug and seal an abandoned public water supply well or test the well every five years or as required by the Executive Director to prove that the well is in a non-deteriorated condition.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 April 19, 2013 (1078749)

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: 04/02/2013 (1074536) CN600662449
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for the wells at the time of inspection.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to have a plant operations manual.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)
Description: Failure to maintain records of the amount of treatment chemicals used each day.
Self Report? NO Classification: Minor
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 290.46(s)(1)
Description: Failure by the regulated entity to calibrate well meters at least every three years.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to properly paint disinfect and maintain a water storage tank in accordance with current AWWA standards.

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 NOVs Issued During Component Period 9/17/2008 and 9/17/2013

1	Date:	08/04/2010 (841989)	CN600662449	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)			
	Description:	Failure to maintain copies of properly completed Customer Service Inspection certifications on file.			
			Classification:	Moderate	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(i)			
	Description:	Failure to adopt provisions for proper enforcement of plumbing ordinance.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)			
	Description:	Failure to make available sanitary control easements for the wells at the time of inspection.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 288, SubChapter B 288.20			
	Description:	Failure to provide a copy of an adopted drought contingency plan.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)			
	Description:	Failure to have a plant operations manual.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)			
	Description:	Failure to maintain records of the dates dead-end mains were flushed.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)			
	Description:	Failure to inspect both the ground and elevated storage tanks at least annually.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)			
	Description:	Failure to have at least two operators who hold a Class "C" or higher groundwater license for a groundwater system serving more than 1,000 connections.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)			
	Description:	Failure to provide the overflow pipe on the elevated storage tanks with a gravity-hinged and weighted cover.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(4)			
	Description:	Failure to equip a water storage tank with a working water level indicator located at the tank site			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)			
	Description:	Failure to install a backflow prevention assembly or an air gap at all residences and establishments where an actual or potential contamination hazard exists.			
			Classification:	Minor	
	Self Report?	NO	For Informational Purposes Only		
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)			
	Description:	Failure to maintain a free chlorine residual of at least 0.2 mg/L throughout the distribution system.			
			Classification:	Minor	

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
Description: Failure to plug and seal an abandoned public water supply well or test the well every five years or as required by the Executive Director to prove that the well is in a non-deteriorated condition.

2 Date: 05/27/2011 (920565) CN600662449
Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failure to adopt provisions for proper enforcement of plumbing ordinance.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for the wells at the time of inspection.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to have a plant operations manual.

3* Date: 04/02/2013 (1074536) CN600662449
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for the wells at the time of inspection.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to have a plant operations manual.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)
Description: Failure to maintain records of the amount of treatment chemicals used each day.
Classification: Minor

Self Report? NO For Informational Purposes Only
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 For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure by the regulated entity to calibrate well meters at least every three years.
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to properly paint disinfect and maintain a water storage tank in accordance with current AWWA standards.

* NOV's applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

Appendix B

All Investigations Conducted During Component Period September 17, 2008 and September 17, 2013

(841989)
Item 1 July 23, 2010** For Informational Purposes Only

(870139)
Item 2 November 15, 2010** For Informational Purposes Only

(891229)

Item 3	February 03, 2011**	For Informational Purposes Only (920565)
Item 4	May 24, 2011**	For Informational Purposes Only (1074536)
Item 5	March 21, 2013**	For Informational Purposes Only (1078749)
Item 6*	April 19, 2013**	For Informational Purposes Only (1100031)
Item 7	July 08, 2013**	For Informational Purposes Only (1114977)
Item 8	September 12, 2013	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF LINDEN
RN101220986

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

AGREED ORDER
DOCKET NO. 2013-1775-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 Linden ("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 104 Kildare Road in Linden, Cass County, Texas (the "Facility") that has approximately 1,091 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on February 21, 2013 and a record review conducted on August 21, 2013, TCEQ staff documented the following records were not provided: amount of chemicals used daily.
3. During an investigation conducted on February 21, 2013 and a record review conducted on August 21, 2013, TCEQ staff documented that the backflow prevention devices at Nexion Health Care, the Carwash, and the Justice Center had not been tested within the last year.
4. During on an investigation conducted on February 21, 2013 and a record review conducted August 21, 2013, TCEQ staff documented that ground storage tank no. 3 and the two elevated storage tanks needed to be repaired and recoated.
5. During an investigation conducted on September 29, 2005 and a record review conducted on August 21, 2013, TCEQ staff documented the Respondent did not obtain sanitary control easements that cover the land within 150 feet of the five wells.
6. During an investigation conducted on September 29, 2005 and a record review conducted on August 21, 2013, TCEQ staff documented the Respondent did not compile and maintain a thorough and up-to-date plant operations manual for operator review and reference.
7. The Executive Director recognizes that on October 15, 2013, the Respondent adopted a sanitary control easement ordinance.
8. The Respondent received notice of the violations on September 18, 2013.

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 provide Facility records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(A)(i)(II).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to to ensure that all backflow prevention assemblies are tested on an annual basis by a recognized backflow assembly tester who certifies that they are operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to ensure that the Facility's clearwells, ground storage tanks, standpipes and elevated tanks 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).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to obtain sanitary control easements that cover the land within 150 feet of the five wells, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
6. As evidenced by Findings of Fact No. 6, the Respondent failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
7. 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.
8. An administrative penalty in the amount of One Thousand Two Hundred Twelve Dollars (\$1,212) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Two Hundred Twelve Dollar (\$1,212) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Two Hundred Twelve Dollars (\$1,212) as set forth in Section II, Paragraph 8 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 Linden, Docket No. 2013-1775-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, begin maintaining completed monthly water works operation records and maintenance records, including but not limited to: the amount of chemicals used each day, in accordance with 30 TEX. ADMIN. CODE § 290.46;
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.;
- c. Within 60 days after the effective date of this Agreed Order, begin maintaining an up-to-date plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42;
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.;
- e. 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 Nexion Health Care, the Carwash, and the Justice Center backflow prevention assembly devices tested by a recognized backflow prevention assembly tester who certifies that these assemblies are operating within specifications, in accordance with 30 TEX. ADMIN. CODE § 290.44;
- f. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.e.;
- g. Within 180 days after the effective date of this Agreed Order, repair and refurbish or replace Tank No. 3 and the two elevated storage tanks so that they meet current AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43; and
- h. Within 195 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.g. 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.

City of Linden
DOCKET NO. 2013-1775-PWS-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona J. [Signature]
For the Executive Director

6/4/14
Date

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

8 November 2013
Date

CLARENCE BURUS
Name (Printed or typed)
Authorized Representative of
City of Linden

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.