

Executive Summary – Enforcement Matter – Case No. 51424

City of Nome

RN101387843

Docket No. 2015-1585-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:

Yes

Location(s) Where Violation(s) Occurred:

City of Nome PWS, 2577 Farm-to-Market Road 365, Nome, Jefferson 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: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: April 15, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,492

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$6,492

Name of SEP: Public Water System Pump Replacement (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$160

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51424

City of Nome

RN101387843

Docket No. 2015-1585-PWS-E

Investigation Information

Complaint Date(s): June 12, 2015 and July 8, 2015

Complaint Information: Alleged that the water appeared yellow to dark brown in color, had a foul odor, and possessed a high level of iron.

Date(s) of Investigation: June 26, 2015 through September 17, 2015 and October 19, 2015 through October 30, 2015

Date(s) of NOE(s): October 5, 2015 and October 30, 2015

Violation Information

1. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director ("ED") upon request [30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(iii), (f)(3)(A)(iv), (f)(3)(A)(vi), (f)(3)(B)(ii), (f)(3)(B)(iii), and (f)(3)(E)(i)].
2. Failed to properly complete the Surface Water Monthly Operating Reports ("SWMORs") submitted to the Commission [30 TEX. ADMIN. CODE § 290.111(h)].
3. Failed to provide a copy of a boil water notification to the ED within ten days of its distribution [30 TEX. ADMIN. CODE § 290.122(a)(5) and (f)].
4. Failed to achieve turbidity levels of the combined filter effluent ("CFE") that are less than 1.0 Nephelometric Turbidity Units ("NTU") [30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
5. Failed to achieve turbidity levels of the CFE that are less than 5.0 NTU [30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and (i)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
6. Failed to issue a boil water notification to the customers of the Facility within 24 hours of a finished water turbidity exceeding 5.0 NTU [30 TEX. ADMIN. CODE §§ 290.46(q)(1) and (q)(3) and 290.122(a)(2)(A)].
7. Failed to design the turbidity recorder so that the operator can accurately determine the turbidity level readings at 15-minute intervals [30 TEX. ADMIN. CODE § 290.111(e)(5)(C)(i)].
8. Failed to operate the disinfection equipment to maintain a disinfectant residual of at least 0.5 milligrams per liter total chlorine throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Executive Summary – Enforcement Matter – Case No. 51424
City of Nome
RN101387843
Docket No. 2015-1585-PWS-E

9. Failed to submit an SWMOR with the required turbidity and disinfectant residual data to the ED by the tenth day of the month following the end of the reporting period [30 TEX. ADMIN. CODE §§ 290.110(e)(2) and (e)(6) and 290.111(h)(2)(B) and (h)(9)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On July 8, 2015, issued a boil water notice to the customers of the Facility in response to low disinfectant residual and CFE turbidity exceeding 5.0 NTU; and
- b. On July 29, 2015, lifted the caps on the turbidity recorder so that the operator can accurately determine the turbidity level readings at 15-minute intervals.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Within 30 days:
 - i. Compile and begin maintaining properly completed water works operation and maintenance records, including but not limited to: the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation; the dates that dead-end mains were flushed; the maintenance records for water system equipment and facilities; copies of any public notice issued by the water system, such as boil water notices; the disinfectant residual monitoring results from the distribution system; and copies of monthly operating reports;
 - ii. 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 SWMORs;
 - iii. Implement procedures to ensure that a copy of all boil water notifications is submitted to the ED;
 - iv. Begin maintaining the turbidity level of the CFE below 1.0 NTU;
 - v. Develop and begin maintaining a written protocol that is to be followed to ensure that proper notification and boil water notices are provided to the customers of the Facility

Executive Summary – Enforcement Matter – Case No. 51424

City of Nome

RN101387843

Docket No. 2015-1585-PWS-E

in the event of turbidity readings greater than 5.0 NTU or other conditions which indicate that the water supply may be compromised; and

vi. Begin submitting complete and accurate SWMORs with the required turbidity and disinfection residual data to the ED each month by the tenth day of the month following the end of the month. This provision will be satisfied upon six consecutive months of compliant reporting.

b. Within 45 days, submit written certification to demonstrate compliance with a.i. through a.v.

c. Within 240 days, submit written certification to demonstrate compliance with 1 and 2.a.vi.

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: Michaelle Garza, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4076; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205

Respondent: The Honorable Kerry Abney, Mayor, City of Nome, P.O. Box D, Nome, Texas 77629

Respondent's Attorney: N/A

Attachment A

Docket Number: 2015-1585-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Table 1: Case Information

Respondent:	City of Nome
Penalty Amount:	Six Thousand Four Hundred Ninety-Two Dollars (\$6,492)
SEP Offset Amount:	Six Thousand Four Hundred Ninety-Two Dollars (\$6,492)
Type of SEP:	Compliance
Project Name:	<i>Public Water System Pump Replacement</i>
Location of SEP:	Jefferson County

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

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its public water system which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s public water system. Respondent shall hire a contractor to purchase and install a new pump, motor, valves, piping, and base at the City owned and operated public water system at 2577 FM 365 in Nome, Jefferson County, Texas. The new pump will be used alternately with the current pump. The installation of the new pump will ensure water works operations remain active and perform efficiently. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: purchase and installation of a new pump and the associated motor, valves, piping, and base (the “Project”). Respondent shall solicit bids from qualified contractors to install the system. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by ensuring the public drinking water supply is safe and available in adequate quantities.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Pump, Motor, Base	1	\$5,850	Set	\$5,850
Check Valve	1	\$662	Each	\$662
Valve	1	\$369	Each	\$369
Concrete Foundation	1	\$580	Each	\$580
Electrical	1	\$1200	Lot	\$1200
90° bend pipe elbow	3	\$58	Each	\$174
45° bend pipe elbow	2	\$58	Each	\$116
Piping	20	\$6.20	Foot	\$124
Total				\$9,075

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 225 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 225-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Table 2: Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
225	Notice of SEP completion

B. Final Report

Within 30 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of invitation for bids, if applicable, (the publication must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the installation site(s);
6. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
7. Dated photographs of the purchased materials and supplies; before and after work being performed during the installation process; and of the completed Project; and
8. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

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

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to “Texas Commission on Environmental Quality,” and shall mail it to:

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

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	12-Oct-2015	Screening	19-Oct-2015	EPA Due	31-Dec-2015
	PCW	20-Oct-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Nome
Reg. Ent. Ref. No.	RN101387843
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	51424	No. of Violations	8
Docket No.	2015-1585-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michaelle Garza
		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** **\$4,415**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **39.0%** Adjustment **Subtotals 2, 3, & 7** **\$1,721**

Notes: Enhancement for three NOVs with the same/similar violations, two NOVs with dissimilar violations and one agreed order containing 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** **-\$12**

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

Total EB Amounts \$1,304
Estimated Cost of Compliance \$2,520
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,124**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$6,124**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,284**

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 **\$6,284**

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaëlle Garza

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>)	3	15%
	Other written NOVs	2	4%
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 judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 39%

>> **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 three NOVs with the same/similar violations, two NOVs with dissimilar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 39%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 39%

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2), (f)(3)(A)(iii), (f)(3)(A)(iv), (f)(3)(A)(vi), (f)(3)(B)(ii), (f)(3)(B)(iii), and (f)(3)(E)(i)

Violation Description Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, the following records were not provided for review: the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation; the dates that dead-end mains were flushed; the maintenance records for water system equipment and facilities; copies of any public notice issued by the water system, such as boil water notices; the disinfectant residual monitoring results from the distribution system; and copies of monthly operating reports.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (2.5%).

Matrix Notes Between 30% and 70% of the rule requirements were not met.

Adjustment \$975

\$25

Violation Events

Number of Violation Events 1 Number of violation days 115

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$25

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$25

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$35

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

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
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	\$270	26-Jun-2015	1-Jun-2016	0.93	\$13	n/a	\$13
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 begin maintaining the missing records (\$45 per record x six records), calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$270

TOTAL \$13

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaëlle Garza

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.111(h)

Violation Description

Failed to properly complete the Surface Water Monthly Operating Reports ("SWMORs") submitted to the Commission. Specifically, the turbidity information noted on the SWMORs consistently did not match the information from the supervisory control and data acquisition ("SCADA") system and/or turbidity meters for the months of February 2015 through May 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 4

82 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$40

Four single events are recommended (one for each month with inaccurate data).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/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 \$40

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$56

This violation Final Assessed Penalty (adjusted for limits) \$200

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
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	Overtime 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	29-Jul-2015	1-Jun-2016	0.84	\$2	n/a	\$2
Training/Sampling	\$100	29-Jul-2015	1-Jun-2016	0.84	\$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 cost includes the estimated amount to develop procedures and implement training to ensure that SWMORs are properly completed and begin submitting complete and accurate SWMORs within 10 days of the end of the month, calculated from the date the recorder logs were received 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	\$145	TOTAL	\$6
----------------------------	-------	--------------	-----

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaëlle Garza

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.122(a)(5) and (f)

Violation Description Failed to provide a copy of a boil water notification to the Executive Director within ten days of its distribution. Specifically, a copy of a boil water notification that was issued on July 8, 2015 was not provided to the Executive Director by the Respondent.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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 1 Number of violation days 92

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

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$70

This violation Final Assessed Penalty (adjusted for limits) \$70

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
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	\$100	18-Jul-2015	1-Jun-2016	0.87	\$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 training delayed cost includes the estimated amount to implement procedures to ensure that all boil water notifications are provided to the Executive Director in a timely manner, calculated from the date a copy of the boil water notice was due 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]	\$5	18-Jul-2015	19-Oct-2015	1.17	\$0	\$5	\$5
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide a copy of a boil water notification to the Executive Director, calculated from the date the notice was due to the screening date.

Approx. Cost of Compliance \$105

TOTAL \$9

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaëlle Garza

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(1)(A) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to achieve turbidity levels of the combined filter effluent ("CFE") that are less than 1.0 Nephelometric Turbidity Units ("NTU"). Specifically, based on data from SCADA charts and the SC200 turbidity recorder, the CFE exceeded 1.0 NTU, but was less than 5.0 NTU for two days in March 2015; three days in April 2015; three days in May 2015; nine days in June 2015; and seven days in July 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Failure to maintain required turbidity levels could expose customers of the Facility to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 24

24 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,200

Twenty-four single events are recommended (one event per day).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$1,200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,067

Violation Final Penalty Total \$1,668

This violation Final Assessed Penalty (adjusted for limits) \$1,668

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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]	\$1,000	1-Mar-2015	31-Jul-2015	1.33	\$67	\$1,000	\$1,067
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount for additional oversight that could have prevented the exceedances, calculated for the months the exceedances occurred.

Approx. Cost of Compliance	\$1,000	TOTAL	\$1,067
----------------------------	---------	--------------	---------

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(1)(A) and (i)(3) and Tex. Health & Safety Code § 341.031(a)

Violation Description

Failed to achieve turbidity levels of the CFE that are less than 5.0 NTU. Specifically, the CFE exceeded 5.0 NTU for five days in March 2015; four days in April 2015; one day in May 2015; six days in June 2015; and three days in July 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to maintain the required turbidity levels could expose customers of the Facility to contaminants that would exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 19

19 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,850

Nineteen single events are recommended (one event per day).

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/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 \$2,850

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,962

This violation Final Assessed Penalty (adjusted for limits) \$3,962

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

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

Notes for AVOIDED costs

The avoided cost is captured in the economic benefit associated with violation no. 4.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaëlle Garza

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(q)(1) and (q)(3) and 290.122(a)(2)(A)

Violation Description Failed to issue a boil water notification to the customers of the Facility within 24 hours of a finished water turbidity exceeding 5.0 NTU. Specifically, data from SCADA charts and the SC200 turbidity recorder documented a CFE greater than 5.0 NTU as early as March 18, 2015 and no boil water notification was issued.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to issue a boil water notice may not allow affected persons to take appropriate measures in response to high turbidity levels and could expose customers of the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/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 \$8

Violation Final Penalty Total \$209

This violation Final Assessed Penalty (adjusted for limits) \$209

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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	\$100	26-Jun-2015	1-Jun-2016	0.93	\$5	n/a	\$5
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	19-Mar-2015	8-Jul-2015	0.30	\$3	n/a	\$3

Notes for DELAYED costs

The delayed costs include the estimated amount to develop and begin maintaining a written protocol that is to be followed to ensure that boil water notices are issued in a timely manner, calculated from the initial date of the investigation to the estimated date of compliance. The other delayed costs include the estimated amount to provide all affected customers with a boil water notification, calculated from the earliest date the boil water notice should have been issued to the date it was issued.

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

TOTAL \$8

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaella Garza

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(5)(C)(i)

Violation Description

Failed to design the turbidity recorder so that the operator can accurately determine the turbidity level readings at 15-minute intervals. Specifically, the SCADA system was capped at 2.97 NTU for the CFE turbidity and 3.0 NTU for the individual filter effluent turbidity, and the system could not accurately determine the turbidity levels during the spikes which frequently exceeded the caps.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Failure to maintain the recorder so the operator can accurately determine the turbidity level readings could expose customers of the Facility to significant amounts of contaminants that would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 21

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$50

One quarterly event is recommended from the date the violation was documented, July 8, 2015, to the date of compliance, July 29, 2015.

Good Faith Efforts to Comply

25.0%

Reduction \$12

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent achieved compliance on July 29, 2015.

Violation Subtotal \$38

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$58

This violation Final Assessed Penalty (adjusted for limits) \$58

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				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)	\$500	8-Jul-2015	29-Jul-2015	0.06	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to adjust the limits on the recorder, calculated from the date of the investigation to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$1

Screening Date 19-Oct-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to operate the disinfection equipment to maintain a disinfectant residual of at least 0.5 milligrams per liter ("mg/L") total chlorine throughout the distribution system at all times. Specifically, on July 8, 2015, total chlorine residuals of 0.09 mg/L and 0.11 mg/L were observed in the distribution system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to maintain proper levels of disinfection could result in the delivery of significant amounts of contaminated water to customers of the Facility which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$200

Violation Final Penalty Total \$70

This violation Final Assessed Penalty (adjusted for limits) \$70

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				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]	\$200	8-Jul-2015	9-Jul-2015	0.00	\$0	\$200	\$200
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount for additional maintenance and oversight to ensure that the disinfection equipment is operating properly and maintaining an adequate disinfectant residual, calculated for the date the low disinfectant residual was documented.

Approx. Cost of Compliance \$200

TOTAL \$200



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	2-Nov-2015	Screening	2-Nov-2015	EPA Due	31-Dec-2015
	PCW	2-Nov-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Nome
Reg. Ent. Ref. No.	RN101387843
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	51424	No. of Violations	1
Docket No.	2015-1585-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michaëlle Garza
		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 **Adjustment** **Subtotals 2, 3, & 7**

Notes

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

Notes

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

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

Total EB Amounts	\$70
Estimated Cost of Compliance	\$66

**Capped at the Total EB \$ Amount*

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Reduction** **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 2-Nov-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

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>)	3	15%
	Other written NOVs	2	4%
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 judgments 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) 39%

>> 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 three NOVs with the same/similar violations, two NOVs with dissimilar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 39%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 39%

Screening Date 2-Nov-2015

Docket No. 2015-1585-PWS-E

PCW

Respondent City of Nome

Policy Revision 4 (April 2014)

Case ID No. 51424

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101387843

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.110(e)(2) and (e)(6) and 290.111(h)(2)(B) and (h)(9)

Violation Description Failed to submit a Surface Water Monthly Operating Report ("SWMOR") with the required turbidity and disinfectant residual data to the Executive Director by the tenth day of the month following the end of the reporting period for June, July, and August 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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 requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3 Number of violation days 92

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$150

Three single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$70

Violation Final Penalty Total \$209

This violation Final Assessed Penalty (adjusted for limits) \$209

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 51424
Reg. Ent. Reference No. RN101387843
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				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 is captured in the economic benefit associated with violation no. 2 on the first penalty calculation worksheet.

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]	\$66	10-Jul-2015	10-Sep-2015	1.09	\$4	\$66	\$70
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to prepare and submit SWMORs (\$22 per report), calculated from the due date of the June 2015 report to the due date of the August 2015 report.

Approx. Cost of Compliance

\$66	TOTAL	\$70
------	--------------	------

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.



Compliance History Report

PENDING Compliance History Report for CN600671887, RN101387843, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600671887, City of Nome **Classification:** SATISFACTORY **Rating:** 4.00

Regulated Entity: RN101387843, CITY OF NOME **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 2577 FARM-TO-MARKET ROAD 365, NOME, JEFFERSON COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1230039

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: November 02, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 02, 2010 to November 02, 2015

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

Name: Michaelle Garza

Phone: (210) 403-4076

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: 08/31/2015 ADMINORDER 2015-0410-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: HAA5 LRAA MCL 4Q2014 - During the 4th quarter of 2014 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.066 mg/L at 23417 Hwy 90 (DBP2-02) and with a LRAA of 0.069 mg/L at 4814 FM 1009 (DBP2-01).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: HAA5 LRAA MCL 3Q2014 - During the 3rd quarter of 2014 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.075 mg/L at 23417 Hwy 90 (DBP2-02).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 3Q2014 During the 3rd quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.086 mg/L at 4814 FM 1009 (DBP2-01).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 3Q2014 During the 3rd quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.092 mg/L at 23417 Hwy 90 (DBP2-02).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C)(iii)

30 TAC Chapter 290, SubChapter D 290.46(f)(4)

Description: FBRR - The system failed to retain records of the Recycling Practices Report form and other records pertaining to site-specific recycle practices for treatment plants that recycle for five years at 2577 HWY 365 (TP14941).

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

E. Written notices of violations (NOV) (CEEDS 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: 11/18/2014 (1223832) CN600671887
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 3Q2014 During the 3rd quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.092 mg/L at 23417 Hwy 90 (DBP2-02).
- 2 Date: 01/27/2015 (1223832) CN600671887
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: HAA5 LRAA MCL 4Q2014 - During the 4th quarter of 2014 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.066 mg/L at 23417 Hwy 90 (DBP2-02) and with a LRAA of 0.069 mg/L at 4814 FM 1009 (DBP2-01).
- 3 Date: 09/14/2015 (1288150) CN600671887
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)
30 TAC Chapter 290, SubChapter F 290.111(e)(3)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 06/2015 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for 2577 Hwy 365 (TP14941).
- 4 Date: 09/15/2015 (1288150) CN600671887
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)
30 TAC Chapter 290, SubChapter F 290.111(e)(3)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 07/2015 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for 2577 Hwy 365 (TP14941).
- 5 Date: 10/13/2015 (1288150) CN600671887
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)
30 TAC Chapter 290, SubChapter F 290.111(e)(3)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 08/2015 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for 2577 Hwy 365 (TP14941).

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

Description: HAA5 LRAA MCL 3Q2014 - During the 3rd quarter of 2014 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.075 mg/L at 23417 Hwy 90 (DBP2-02).

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM LRAA MCL 3Q2014 During the 3rd quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.086 mg/L at 4814 FM 1009 (DBP2-01).

3* Date: 11/18/2014 (1223832) CN600671887

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM LRAA MCL 3Q2014 During the 3rd quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.092 mg/L at 23417 Hwy 90 (DBP2-02).

4* Date: 01/27/2015 (1223832) CN600671887

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: HAA5 LRAA MCL 4Q2014 - During the 4th quarter of 2014 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.066 mg/L at 23417 Hwy 90 (DBP2-02) and with a LRAA of 0.069 mg/L at 4814 FM 1009 (DBP2-01).

5 Date: 09/14/2015 (1288150) CN600671887

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)
30 TAC Chapter 290, SubChapter F 290.111(e)(3)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 06/2015 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for 2577 Hwy 365 (TP14941).

6 Date: 09/15/2015 (1288150) CN600671887

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)
30 TAC Chapter 290, SubChapter F 290.111(e)(3)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 07/2015 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for 2577 Hwy 365 (TP14941).

7 Date: 10/13/2015 (1288150) CN600671887

Classification: Moderate

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)
30 TAC Chapter 290, SubChapter F 290.111(e)(3)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 08/2015 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for 2577 Hwy 365 (TP14941).

* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

Appendix B

All Investigations Conducted During Component Period November 02, 2010 and November 02, 2015

Item 1	May 31, 2011**	(923029) For Informational Purposes Only
Item 2	February 25, 2013**	(1055531) For Informational Purposes Only
Item 3	September 03, 2013**	(1106502) For Informational Purposes Only
Item 4	June 10, 2014**	(1171587) For Informational Purposes Only
Item 5	February 11, 2015**	(1223832) For Informational Purposes Only
Item 6	February 13, 2015**	(1227119) For Informational Purposes Only
Item 7	October 27, 2015	(1288150) For Informational Purposes Only
Item 8	October 30, 2015	(1288257) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF NOME
RN101387843**

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

**AGREED ORDER
DOCKET NO. 2015-1585-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 Nome (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 located at 2577 Farm-to-Market Road 365 in Nome, Jefferson County, Texas (the "Facility") that has approximately 290 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that the following records were not provided for review: the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation; the dates that dead-end mains were flushed; the maintenance records for water system equipment and facilities; copies of any public notice issued by the water system, such as boil water notices; the disinfectant residual monitoring results from the distribution system; and copies of monthly operating reports.
3. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that the turbidity information noted on the Surface Water Monthly Operating Reports ("SWMORs") consistently did not match the information from the supervisory control and data acquisition ("SCADA") system and/or turbidity meters for the months of February 2015 through May 2015.
4. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that a copy of a boil water notification that was issued on July 8, 2015 was not provided to the Executive Director by the Respondent.
5. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that, based on data from SCADA charts and the SC200 turbidity recorder, the combined filter effluent ("CFE") exceeded 1.0 Nephelometric Turbidity Units ("NTU"), but was less than 5.0 NTU for two days in March 2015; three days in April 2015; three days in May 2015; nine days in June 2015; and seven days in July 2015.
6. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that the CFE exceeded 5.0 NTU for five days in March 2015; four days in April 2015; one day in May 2015; six days in June 2015; and three days in July 2015.
7. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that data from SCADA charts and the SC200 turbidity recorder documented a CFE greater than 5.0 NTU as early as March 18, 2015 and no boil water notification was issued.
8. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that the SCADA system was capped at 2.97 NTU for the CFE turbidity and 3.0 NTU for the individual filter effluent turbidity, and the system could not accurately determine the turbidity levels during the spikes which frequently exceeded the caps.
9. During an investigation conducted from June 26, 2015 through September 17, 2015, TCEQ staff documented that on July 8, 2015, total chlorine residuals of 0.09 milligrams per liter ("mg/L") and 0.11 mg/L were observed in the distribution system.

10. During a record review conducted from October 19, 2015 through October 30, 2015, TCEQ staff documented that the Respondent did not submit a SWMOR with the required turbidity and disinfectant residual data to the Executive Director by the tenth day of the month following the end of the reporting period for June, July, and August 2015.
11. The Respondent received notices of the violations on October 13, 2015 and November 3, 2015.
12. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On July 8, 2015, issued a boil water notice to the customers of the Facility in response to low disinfectant residual and CFE turbidity exceeding 5.0 NTU; and
 - b. On July 29, 2015, lifted the caps on the turbidity recorder so that the operator can accurately determine the turbidity level readings at 15-minute intervals.

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 maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(iii), (f)(3)(A)(iv), (f)(3)(A)(vi), (f)(3)(B)(ii), (f)(3)(B)(iii), and (f)(3)(E)(i).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to properly complete the SWMORs submitted to the Commission, in violation of 30 TEX. ADMIN. CODE § 290.111(h).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide a copy of a boil water notification to the Executive Director within ten days of its distribution, in violation of 30 TEX. ADMIN. CODE § 290.122(a)(5) and (f).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to achieve turbidity levels of the CFE that are less than 1.0 NTU, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
6. As evidenced by Findings of Fact No. 6, the Respondent failed to achieve turbidity levels of the CFE that are less than 5.0 NTU, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and (i)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a).

7. As evidenced by Findings of Fact No. 7, the Respondent failed to issue a boil water notification to the customers of the Facility within 24 hours of a finished water turbidity exceeding 5.0 NTU, in violation of 30 TEX. ADMIN. CODE §§ 290.46(q)(1) and (q)(3) and 290.122(a)(2)(A).
8. As evidenced by Findings of Fact No. 8, the Respondent failed to design the turbidity recorder so that the operator can accurately determine the turbidity level readings at 15-minute intervals, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(5)(C)(i).
9. As evidenced by Findings of Fact No. 9, the Respondent failed to operate the disinfection equipment to maintain a disinfectant residual of at least 0.5 mg/L total chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
10. As evidenced by Findings of Fact No. 10, the Respondent failed to submit an SWMOR with the required turbidity and disinfectant residual data to the Executive Director by the tenth day of the month following the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(2) and (e)(6) and 290.111(h)(2)(B) and (h)(9)¹.
11. 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.
12. An administrative penalty in the amount of Six Thousand Four Hundred Ninety-Two Dollars (\$6,492) 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). Six Thousand Four Hundred Ninety-Two Dollars (\$6,492) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 Six Thousand Four Hundred Ninety-Two Dollars (\$6,492) as set forth in Section II, Paragraph 12 above, for violations of TCEQ rules and state statutes. The payment of this

¹ Effective July 30, 2015, 30 TEX. ADMIN. CODE §§ 290.110 and 290.111 were amended and the requirements in 30 TEX. ADMIN. CODE §§ 290.110(e) and 290.111(h) were renumbered. 40 TEX. REG. 4769. Previously, the requirements in 30 TEX. ADMIN. CODE § 290.110(e)(6) were required of the Respondent under 290.110(e)(5) and the requirements in 30 TEX. ADMIN. CODE § 290.111(h)(2)(B) and (h)(9) were required of Respondent under 30 TEX. ADMIN. CODE § 290.111(h)(2) and (h)(12).

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 Nome, Docket No. 2015-1585-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 12 above, Six Thousand Four Hundred Ninety-Two Dollars (\$6,492) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Compile and begin maintaining properly completed water works operation and maintenance records, including but not limited to: the date, location, and nature of water quality, pressure, or outage complaints received by the system and the results of any subsequent complaint investigation; the dates that dead-end mains were flushed; the maintenance records for water system equipment and facilities; copies of any public notice issued by the water system, such as boil water notices; the disinfectant residual monitoring results from the distribution system; and copies of monthly operating reports, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. 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 SWMORs, in accordance with 30 TEX. ADMIN. CODE §§ 290.110 and 290.111;
 - iii. Implement procedures to ensure that a copy of all boil water notifications is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122;

- iv. Begin maintaining the turbidity level of the CFE below 1.0 NTU, in accordance with 30 TEX. ADMIN. CODE § 290.111;
- v. Develop and begin maintaining a written protocol that is to be followed to ensure that proper notification and boil water notices are provided to the customers of the Facility in the event of turbidity readings greater than 5.0 NTU or other conditions which indicate that the water supply may be compromised, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.122; and
- vi. Begin submitting complete and accurate SWMORs with the required turbidity and disinfection residual data to the Executive Director each month by the tenth day of the month following the end of the month, in accordance with 30 TEX. ADMIN. CODE §§ 290.110 and 290.111. This provision will be satisfied upon six consecutive months of compliant reporting. The documentation shall be submitted to:

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

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.c below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i through 3.a.v.
- c. Within 240 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 Nos. 2 and 3.a.vi. 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

* 
For the Executive Director

7/21/16
Date

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

Date

Kerry Abney

3-15-16

Name (Printed or typed)
Authorized Representative of
City of Nome

Title

Mayor

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.

Attachment A

Docket Number: 2015-1585-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Table 1: Case Information

Respondent:	City of Nome
Penalty Amount:	Six Thousand Four Hundred Ninety-Two Dollars (\$6,492)
SEP Offset Amount:	Six Thousand Four Hundred Ninety-Two Dollars (\$6,492)
Type of SEP:	Compliance
Project Name:	<i>Public Water System Pump Replacement</i>
Location of SEP:	Jefferson County

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

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its public water system which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s public water system. Respondent shall hire a contractor to purchase and install a new pump, motor, valves, piping, and base at the City owned and operated public water system at 2577 FM 365 in Nome, Jefferson County, Texas. The new pump will be used alternately with the current pump. The installation of the new pump will ensure water works operations remain active and perform efficiently. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: purchase and installation of a new pump and the associated motor, valves, piping, and base (the “Project”). Respondent shall solicit bids from qualified contractors to install the system. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by ensuring the public drinking water supply is safe and available in adequate quantities.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Pump, Motor, Base	1	\$5,850	Set	\$5,850
Check Valve	1	\$662	Each	\$662
Valve	1	\$369	Each	\$369
Concrete Foundation	1	\$580	Each	\$580
Electrical	1	\$1200	Lot	\$1200
90° bend pipe elbow	3	\$58	Each	\$174
45° bend pipe elbow	2	\$58	Each	\$116
Piping	20	\$6.20	Foot	\$124
Total				\$9,075

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 225 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 225-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Table 2: Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
225	Notice of SEP completion

B. Final Report

Within 30 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of invitation for bids, if applicable, (the publication must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the installation site(s);
6. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
7. Dated photographs of the purchased materials and supplies; before and after work being performed during the installation process; and of the completed Project; and
8. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

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

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

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

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

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