

**City of Elsa**  
**RN101219665**  
**Docket No. 2016-0085-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions over the prior five year period for the same violations.

**Media:**

PWS

**Small Business:**

N/A

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

500 West 5th Street, Elsa, Hidalgo County

**Type of Operation:**

public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** October 7, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,952

**Total Paid to General Revenue:** \$1,952

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

**Compliance History Classifications:**

Person/CN – Satisfactory  
 Site/RN – N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002 (PCW 1); April 2014 (PCW 2)

## City of Elsa

RN101219665

Docket No. 2016-0085-PWS-E

**Investigation Information**

<b>Complaint Date(s):</b>	N/A
<b>Date(s) of Investigation:</b>	December 21, 2015 through January 8, 2016
<b>Date(s) of NOV(s):</b>	See Compliance History – 5 related NOVs
<b>Date(s) of NOE(s):</b>	January 8, 2016

**Violation Information**

1. Failed to submit routine reports and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter [30 TEX. ADMIN. CODE §§ 290.46(f)(3)(C)(iii) and (f)(4)].
2. 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 [30 TEX. ADMIN. CODE §§ 290.110(e)(2) and (e)(5) and 290.111(h)(2)(B) and (h)(9)].
3. Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director [30 TEX. ADMIN. CODE § 290.117(c)(2)(C) and (i)(1)].
4. Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples [30 TEX. ADMIN. CODE §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. 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.
  - b. Submit 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. This provision will be satisfied upon six consecutive months of compliant reporting.
  - c. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results are reported to the Executive Director within ten days following the end of each monitoring period.
  - d. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director.
  - e. Provide public notification regarding the failure to collect lead and copper tap samples for the January 1, 2014 through December 31, 2014 monitoring period, and provide a copy of each public notification to the Executive Director.
  - f. Submit an updated Recycling Practices Report to the Executive Director.

**City of Elsa  
RN101219665**

**Docket No. 2016-0085-PWS-E**

2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. and 1.c. through 1.f.
3. Within 90 days, comply with applicable lead and copper monitoring requirements by collecting the required number of lead and copper tap samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period. This provision will be satisfied upon two compliant semiannual monitoring periods.
4. Within 225 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.b.
5. Within 470 days, submit written certification to demonstrate compliance with Technical Requirement No. 3.

**Litigation Information**

**Date Petition(s) Filed:** July 18, 2016  
**Date Answer Filed:** August 22, 2016  
**Settlement Date:** August 26, 2016

**Contact Information**

**TCEQ Attorneys:** Elizabeth Carroll Harkrider, Litigation Division, (512) 239-3400  
Ryan Rutledge, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, (210) 403-4016

**TCEQ Regional Contact:** Francisco J. Chavero, Jr., Harlingen Regional Office, (956) 425-6010

**Respondent Contact:** The Honorable Alonzo Perez, Jr., Mayor, City of Elsa, P.O. Box 427, Elsa, Texas 78543

**Respondent's Attorney:** Robert J. Salinas, City Attorney, City of Elsa, P.O. Box 427, Elsa, Texas 78543



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	11-Jan-2016	<b>Screening</b>	14-Jan-2016	<b>EPA Due</b>	31-Mar-2016
	<b>PCW</b>	14-Jan-2016				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Elsa
<b>Reg. Ent. Ref. No.</b>	RN101219665
<b>Facility/Site Region</b>	15-Harlingen
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	51751	<b>Order Type</b>	Findings
<b>Docket No.</b>	2016-0085-PWS-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Katy Montgomery
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	22.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$55
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Notes: Enhancement for four NOVs with the same/similar violations and one NOV with dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$34  
 Estimated Cost of Compliance: \$135  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$305
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$305
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$305
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$305
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Screening Date 14-Jan-2016

Docket No. 2016-0085-PWS-E

PCW

Respondent City of Elsa

Policy Revision 2 (September 2002)

Case ID No. 51751

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219665

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

## 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> )	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 22%

### >> 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 four NOVs with the same/similar violations and one NOV with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 22%

<b>Screening Date</b>	14-Jan-2016	<b>Docket No.</b>	2016-0085-PWS-E	<b>PCW</b>
<b>Respondent</b>	City of Elsa			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	51751			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101219665			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Katy Montgomery			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.46(f)(3)(C)(iii) and (f)(4)

**Violation Description**

Failed to submit routine reports and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter. Specifically, in a letter dated April 6, 2011, an updated Recycling Practices Report was requested to be completed and submitted within 90 days but was not submitted.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

100% of the rule requirements were not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>	

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

**Notes**

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 51751  
**Reg. Ent. Reference No.** RN101219665  
**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)	\$135	5-Jul-2011	31-Jul-2016	5.08	\$34	n/a	\$34

**Notes for DELAYED costs**  
 The delayed costs include the estimated amount to prepare an updated Recycling Practices Report and submit it to the Executive Director, calculated from the date the report 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** \$135

**TOTAL** \$34



Policy Revision 4 (April 2014)

## Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	11-Jan-2016			
	<b>PCW</b>	16-Feb-2016	<b>Screening</b>	14-Jan-2016	<b>EPA Due</b> 31-Mar-2016

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	City of Elsa				
<b>Reg. Ent. Ref. No.</b>	RN101219665				
<b>Facility/Site Region</b>	15-Harlingen	<b>Major/Minor Source</b>	Major		

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	51751	<b>No. of Violations</b>	3
<b>Docket No.</b>	2016-0085-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,350
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

<b>Compliance History</b>	22.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$297
Notes	Enhancement for four NOVs with the same/similar violations and one NOV with dissimilar violations.			
<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>
Notes	The Respondent does not meet the culpability criteria.			
<b>Good Faith Effort to Comply Total Adjustments</b>			<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$2,904	*Capped at the Total EB \$ Amount		
Estimated Cost of Compliance	\$2,792			

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,647
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes		<b>Final Penalty Amount</b>	\$1,647
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,647
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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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.			
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<b>PAYABLE PENALTY</b>	\$1,647
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Screening Date 14-Jan-2016

Docket No. 2016-0085-PWS-E

PCW

Respondent City of Elsa

Policy Revision 4 (April 2014)

Case ID No. 51751

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101219665

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

### 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> )	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 22%

#### >> 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 four NOVs with the same/similar violations and one NOV with dissimilar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 22%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 22%

<b>Screening Date</b>	14-Jan-2016	<b>Docket No.</b>	2016-0085-PWS-E	<b>PCW</b>
<b>Respondent</b>	City of Elsa			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	51751			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN101219665			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Katy Montgomery			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> Environmental, Property and Human Health Matrix

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="15.0%"/>

**Matrix Notes**

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>	

**Violation Base Penalty**

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/ Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

**Notes**

**Violation Subtotal**

Economic Benefit (EB) for this violation

Statutory Limit Test

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 51751  
**Reg. Ent. Reference No.** RN101219665  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	21-Dec-2015	31-Jul-2016	0.61	\$1	n/a	\$1
Training/Sampling	\$100	21-Dec-2015	31-Jul-2016	0.61	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** The delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all SWMORs are submitted to the Executive Director in a timely manner, calculated from the date of the record review to the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$22	10-Nov-2015	14-Jan-2016	1.10	\$1	\$22	\$23
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs** The avoided costs include the estimated amount to prepare and submit a completed SWMOR (\$22 per report), calculated from the due date of the October 2015 report to the screening date.

<b>Approx. Cost of Compliance</b>	\$167	<b>TOTAL</b>	\$27
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<b>Screening Date</b>	14-Jan-2016	<b>Docket No.</b>	2016-0085-PWS-E	<b>PCW</b>
<b>Respondent</b>	City of Elsa			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	51751			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN101219665			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Katy Montgomery			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.117(c)(2)(C) and (i)(1)			
<b>Violation Description</b>	Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory and submit the results to the Executive Director for the January 1, 2009 through December 31, 2011 monitoring period.			
		<b>Base Penalty</b>	\$1,000	

>> Environmental, Property and Human Health Matrix

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 30.0%
Potential	x				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0.0%

Matrix Notes: Failure to collect lead and copper samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

**Adjustment** \$700

\$300

Violation Events

Number of Violation Events: 1      1095 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

**Violation Base Penalty** \$300

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.	
	<b>Violation Subtotal</b>	\$300

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount \$720	Violation Final Penalty Total \$366
<b>This violation Final Assessed Penalty (adjusted for limits) \$366</b>	

## Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 51751  
**Reg. Ent. Reference No.** RN101219665  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	21-Dec-2015	31-Jul-2016	0.61	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed costs include the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future lead and copper samples are collected by the Facility's personnel, analyzed by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$600	1-Jan-2009	31-Dec-2011	3.92	\$117	\$600	\$717
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided costs include the estimated amount to collect and have analyzed the required lead and copper samples (\$30 per sample x 20 missed samples x one monitoring period), calculated for the monitoring period in which sampling was required.

<b>Approx. Cost of Compliance</b>	\$700	<b>TOTAL</b>	\$720
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<b>Screening Date</b>	14-Jan-2016	<b>Docket No.</b>	2016-0085-PWS-E	<b>PCW</b>
<b>Respondent</b>	City of Elsa			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	51751			<i>PCW Revision March 26, 2014</i>
<b>Reg. Ent. Reference No.</b>	RN101219665			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Katy Montgomery			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="30.0%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text" value="x"/>
	single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Elsa  
**Case ID No.** 51751  
**Reg. Ent. Reference No.** RN101219665  
**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
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### 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	21-Dec-2015	31-Jul-2016	0.61	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	11-Jan-2015	31-Jul-2016	1.55	\$2	n/a	\$2

**Notes for DELAYED costs**

The delayed costs of compliance regarding lead and copper tap sample collection are captured in the Economic Benefit Worksheet for Violation No. 2.

The training/sampling delayed costs include the estimated amount to implement procedures to ensure that all necessary public notifications are provided in a timely manner, calculated from the record review date to the estimated date of compliance.

The other delayed costs include the estimated amount to ensure that the delinquent public notification (\$25 per notification x one notification) is provided to persons served by the Facility and a copy of the notification is provided to the Executive Director, calculated from the date the notification 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
<b>ONE-TIME avoided costs [3]</b>	\$1,800	1-Jan-2013	31-Dec-2015	3.92	\$352	\$1,800	\$2,152
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount to collect and have analyzed the required lead and copper tap samples (\$30 per sample x 20 missed samples x three monitoring periods), calculated for the monitoring periods in which sampling was required.

<b>Approx. Cost of Compliance</b>	\$1,925	<b>TOTAL</b>	\$2,157
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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

**PUBLISHED** Compliance History Report for CN600661409, RN101219665, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN600661409, City of Elsa **Classification:** SATISFACTORY **Rating:** 21.11  
**Regulated Entity:** RN101219665, CITY OF ELSA **Classification:** NOT APPLICABLE **Rating:** N/A  
**Complexity Points:** N/A **Repeat Violator:** N/A  
**CH Group:** 14 - Other  
**Location:** 500 WEST 5TH STREET, ELSA, HIDALGO COUNTY, TEXAS  
**TCEQ Region:** REGION 15 - HARLINGEN  
**ID Number(s):** PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1080005  
**Compliance History Period:** September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015  
**Date Compliance History Report Prepared:** January 14, 2016  
**Agency Decision Requiring Compliance History:** Enforcement  
**Component Period Selected:** January 14, 2011 to January 14, 2016  
**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Katy Montgomery **Phone:** (210) 403-4016

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

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

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

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

N/A

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

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

- 1 Date: 03/16/2015 (1301573) CN600661409  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: LCR RD MR PN YR2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a distribution lead and copper reduced monitoring and reporting violation for the annual reduced monitoring period from 01/01/2014 to 12/31/2014.
- 2 Date: 05/28/2015 (1239224) CN600661409  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
Description: Failure to provide a flow measuring device to measure the recycled decant water.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)  
Description: Failure to not have at least one functional standby unit of each type of disinfecting equipment.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to ensure the maintenance and housekeeping practices used by a public water system shall ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of water.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to ensure the maintenance and housekeeping practices used by a public water system shall ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be

maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of water.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)(A)  
Description: Failure to provide identification of influent, effluent, waste backwash, and chemical feed lines by the use of labels or various colors of paint. Where labels are used, they shall be placed along the pipe at no greater intervals than five-foot intervals. Color coding must be by solid color or banding. If bands are used, they shall be placed along the pipe at no greater than five-foot intervals.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: Failure to have flow measuring devices and rate-of-flow controllers that are required by 290.42(d) of this title shall be calibrated at least once every twelve months.  
Specifically, on the April 28, 2015, investigation the annual flow meter calibrations had not been performed as the facility was unable to provide the calibration certificates for flow meters throughout the water treatment plant.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46  
Description: Failure of a surface water treatment plant that serves more than 1000 connections to employ at least two operators; one of the required operators must hold a Class "B" or higher surface water license and the other required operator must hold a Class "C" of higher surface water license.

3 Date: 11/18/2015 (1301573) CN600661409  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR RD MR YR2015 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the annual reduced monitoring period from 01/01/2015 to 12/31/2015 within the required timeline.

4 Date: 12/18/2015 (1301573) CN600661409  
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)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.111(h)(9)  
Description: SWTR SWMOR Major MR Violation 10/2015 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for 501 N Hidalgo St (TP14886).

5 Date: 12/28/2015 (1301573) CN600661409  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR RD MR YR2013 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the annual reduced monitoring period from 01/01/2013 to 12/31/2013 within the required timeline.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: LCR RD MR 3Y2011 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the triennial reduced monitoring period from 01/01/2009 to 12/31/2011 within the required timeline.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF ELSA;  
RN101219665**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

### **DOCKET NO. 2016-0085-PWS-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Elsa ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

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

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at 500 West Fifth Street in Elsa, Hidalgo County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 2,000 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(69).
2. During a record review conducted December 21, 2015 through January 8, 2016, an investigator documented that Respondent:
  - a. Failed to submit routine reports and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter. Specifically, in a letter dated April 6, 2011, an updated Recycling Practices Report was requested to be completed and submitted within 90 days but was not submitted;

- b. 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 October 2015;
- c. Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director for the January 1, 2009 through December 31, 2011 monitoring period; and
- d. Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director for the January 1, 2013 through December 31, 2013; January 1, 2014 through December 31, 2014; and January 1, 2015 through December 31, 2015 monitoring periods and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper tap samples for the January 1, 2014 through December 31, 2014 monitoring period.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit routine reports and any additional documentation that the Executive Director may require to determine compliance with the requirements of this chapter, in violation of 30 TEX. ADMIN. CODE §§ 290.46(f)(3)(C)(iii) and (f)(4).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to 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, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(2) and (e)(5) and 290.111(h)(2)(B) and (h)(9).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(C) and (i)(1).<sup>1</sup>
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead

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<sup>1</sup> Effective May 15, 2011, 30 TEX. ADMIN. CODE § 290.117 was amended and the requirements in 30 TEX. ADMIN. CODE §§ 290.117(c)(2) and (i)(1) were added. 36 TEX. REG. 2860. Previously, the requirements in 30 TEX. ADMIN. CODE §§ 290.117(c)(2) and (i)(1) were required of Respondent under 30 TEX. ADMIN. CODE §§ 290.117(a)(2)(A) and (m)(1)(B) (effective Jan. 9, 2008) and 40 C.F.R. §§ 141.86(c), (d)(ii), and (f)(2)(2007).

and copper tap samples, in violation of 30 TEX. ADMIN. CODE §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f).

6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of one thousand nine hundred fifty-two dollars (\$1,952.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Respondent paid one thousand nine hundred fifty-two dollars (\$1,952.00) of the penalty.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified SWMORs, in accordance with 30 TEX. ADMIN. CODE §§ 290.110 and 290.111;
    - ii. Submit 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

- iii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results are reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117;
  - iv. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122;
  - v. Provide public notification regarding the failure to collect lead and copper tap samples for the January 1, 2014 through December 31, 2014 monitoring period, and provide a copy of each public notification to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
  - vi. Submit an updated Recycling Practices Report to the Executive Director in accordance with Ordering Provision No. 2.f.
- b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.iii. through 2.a.vi.
  - c. Within 90 days after the effective date of this Order, comply with applicable lead and copper monitoring requirements by collecting the required number of lead and copper tap samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon two compliant semiannual monitoring periods.
  - d. Within 225 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provision No. 2.a.ii.
  - e. Within 470 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provision No. 2.c.
  - f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including

photographs, receipts, and/or other records, shall be signed by Respondent, and shall 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 fine and imprisonment for knowing violations."

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing,

refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

7. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

\_\_\_\_\_  
Date





\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date

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

I also understand that failure to comply with the Ordering Provisions 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



\_\_\_\_\_  
Signature – Alonzo Perez, Jr., Mayor  
City of Elsa  
P.O. Box 427  
Elsa, Texas 78543



\_\_\_\_\_  
Date

*If mailing address has changed, please check this box and provide the new address below:*

\_\_\_\_\_