

**Executive Summary – Enforcement Matter – Case No. 59457**

**City of San Augustine**

**RN103779302**

**Docket No. 2020-0818-MLM-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:**

MLM - PWS, WQ

**Small Business:**

No

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

City of San Augustine PWS, located off Farm-to-Market Road 2213, 2.5 miles south of San Augustine next to Lake San Augustine, San Augustine County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2019-1582-MWD-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 5, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,302

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

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

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$16,302

Name of SEP: WWTP Improvements (Compliance)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** \$34

**Applicable Penalty Policy:** April 2014

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** March 23, 2020 through April 3, 2020 and May 19, 2020

**Date(s) of NOE(s):** April 3, 2020 and June 9, 2020

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**Docket No. 2020-0818-MLM-E**

***Violation Information***

1. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request [30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(D)(ii), and (f)(3)(E)(iv)].
2. Failed to flush all dead-end mains at monthly intervals [30 TEX. ADMIN. CODE § 290.46(l)].
3. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment [30 TEX. ADMIN. CODE § 290.46(m)].
4. Failed to provide an intruder-resistant fence or well house around each treatment plant, well unit, potable water treatment plant, pressure maintenance facility and related appurtenances that remains locked during periods of darkness and when the facility is unattended [30 TEX. ADMIN. CODE §§ 290.42(m) and 290.43(e)].
5. Failed to ensure the discharge opening of the overflows were above the surface of the ground and were not subject to submergence [30 TEX. ADMIN. CODE § 290.43(c)(3)].
6. Failed to prevent an unauthorized discharge of wastewater from the surface water treatment plant filters [TEX. WATER CODE § 26.121(a)].
7. Failed to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**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. Immediately, cease the unauthorized discharge from the surface water treatment plant filters.

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**Docket No. 2020-0818-MLM-E**

- b. Within 15 days, submit written certification to demonstrate compliance with a.
- c. Within 30 days:
  - i. Compile and maintain properly completed water works operation and maintenance records and make them immediately available for inspection upon request by the Executive Director, including but not limited to the results of inspections for all water and pressure maintenance facilities and Customer Service Inspection reports;
  - ii. Begin flushing all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels. This provision will be satisfied upon three months of consecutive compliant monthly flushing;
  - iii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, including removing the crystalized caustic on the secondary containment and equipment, repairing or disconnecting the pressure tank at the Light Plant and the optional settling tank to the surface water treatment plant, and removing the vegetation from the fences at the Hospital Booster Plant and the Highway 96 Elevated Storage Tank; and
  - iv. Repair the intruder-resistant fences at Highway 147, Highway 96 Elevated Storage Tank, and Light Plant Ground Storage Tank.
- d. Within 45 days, submit written certification to demonstrate compliance with c.i. and c.iii. through c.iv.
- e. Within 60 days, relocate the discharge opening of the overflow for the Hospital Elevated Storage Tank.
- f. Within 75 days, submit written certification to demonstrate compliance with e.
- g. Within 135 days, submit written certification to demonstrate compliance with c.ii.
- h. Within 180 days, investigate, identify, and implement the necessary corrective actions to return to compliance with the unauthorized discharge.
- i. Within 195 days, submit written certification to demonstrate compliance with h.
- j. Within 365 days, return to compliance with the maximum contaminant level for total trihalomethanes based on a locational running annual average.

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**City of San Augustine**

**RN103779302**

**Docket No. 2020-0818-MLM-E**

k. Within 380 days, submit written certification to demonstrate compliance with Ordering Provision No. 3.j.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Epifanio Villarreal, Enforcement Division, Enforcement Team 8, MC R-14, (361) 825-3421; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Betty Sanders, SEP Coordinator, Litigation Division, MC 175, (512) 239-3992

**Respondent:** The Honorable Leroy Hughes, Mayor, City of San Augustine, 301 South Harrison, San Augustine, Texas 75972

Jeaneyse L. Mosby, City Manager, City of San Augustine, 301 South Harrison, San Augustine, Texas 75972

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

<b>DATES</b>	<b>Assigned</b>	15-Jun-2020			
	<b>PCW</b>	16-Jun-2020	<b>Screening</b>	16-Jun-2020	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of San Augustine (PCW No. 1)
<b>Reg. Ent. Ref. No.</b>	RN103779302
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59457	<b>No. of Violations</b>	4
<b>Docket No.</b>	2020-0818-MLM-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 8
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,100</b>
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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>	<b>65.0%</b>	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$4,615</b>
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Notes: Enhancement for three NOVs with the same/similar violations and two agreed orders without a denial of liability.

<b>Culpability</b>	No	<b>0.0%</b>	Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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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>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b>	Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$3,963  
 Estimated Cost of Compliance: \$17,400  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$11,715</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$11,715</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$11,715</b>
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<b>DEFERRAL</b>	<b>0.0%</b>	Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$11,715</b>
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**Screening Date** 16-Jun-2020

**Docket No.** 2020-0818-MLM-E

**PCW**

**Respondent** City of San Augustine (PCW No. 1)

*Policy Revision 4 (April 2014)*

**Case ID No.** 59457

*PCW Revision September 1, 2019*

**Reg. Ent. Reference No.** RN103779302

**Media** Public Water Supply

**Enf. Coordinator** Epifanio Villarreal

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	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	0	0%
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	2	50%
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%
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)** 65%

**>> 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 and two agreed orders without a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 65%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 65%

Screening Date 16-Jun-2020

Docket No. 2020-0818-MLM-E

PCW

Respondent City of San Augustine (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 59457

PCW Revision September 1, 2019

Reg. Ent. Reference No. RN103779302

Media Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(l)

Violation Description Failed to flush all dead-end mains at monthly intervals. Specifically, according to the flushing log, the dates that flushing occurred did not correspond to the month listed on the form and not all dead-end mains were flushed during the month.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (7.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Failure to flush all dead-end mains at monthly intervals could expose persons served by the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,650

\$350

Violation Events

Number of Violation Events 1 Number of violation days 28

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and occurrence (x).

Violation Base Penalty \$350

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Effort (Extraordinary, Ordinary, N/A) and timing (Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer).

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

Violation Subtotal \$350

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$40

Violation Final Penalty Total \$578

This violation Final Assessed Penalty (adjusted for limits) \$578

## Economic Benefit Worksheet

**Respondent** City of San Augustine (PCW No. 1)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**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	Costs Saved	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				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)	\$200	19-Jul-2018	1-Aug-2022	4.04	\$40	n/a	\$40

Notes for DELAYED costs

The delayed cost includes the estimated amount to modify the flushing program, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

**TOTAL**

\$40

**Screening Date** 16-Jun-2020 **Docket No.** 2020-0818-MLM-E  
**Respondent** City of San Augustine (PCW No. 1)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**Media** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision September 1, 2019*

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.46(m)  
**Violation Description** Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, the caustic secondary containment and equipment had crystalized caustic over the equipment. In addition, the pressure tank at the Light Plant and the optional settling tank at the surface water treatment plant had been out of service for more than 120 days. In addition, the fences at the Hospital Booster Plant and Highway 96 Elevated Storage Tank were not kept free of vegetation.

**Base Penalty** \$5,000

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

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

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Failure to ensure the good working condition and general appearance of the Facility and its equipment could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.					

**Adjustment** \$4,250

\$750

**Violation Events**

Number of Violation Events 5 28 Number of violation days

daily		<b>Violation Base Penalty</b> \$3,750
weekly		
monthly		
quarterly	x	
semiannual		
annual		
single event		

Five quarterly events are recommended (one event per facility and/or equipment), calculated from the date of the record review, May 19, 2020, to the date of screening, June 16, 2020.

**Good Faith Efforts to Comply**

**0.0%** Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer Reduction \$0

Extraordinary	
Ordinary	
N/A	x
Notes	The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$3,750

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

**Statutory Limit Test**

**Estimated EB Amount** \$1,609 **Violation Final Penalty Total** \$6,188

**This violation Final Assessed Penalty (adjusted for limits)** \$6,188

## Economic Benefit Worksheet

**Respondent** City of San Augustine (PCW No. 1)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**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	Costs Saved	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				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)	\$8,500	19-Jul-2018	1-May-2022	3.79	\$1,609	n/a	\$1,609

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to remove the crystalized caustic on the secondary containment and equipment, repair or disconnect the pressure tank at the Light Plant and the optional settling tank to the surface water treatment plant, and remove the vegetation from the fences at the Hospital Booster Plant and the Highway 96 Elevated Storage Tank, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$8,500

**TOTAL**

\$1,609

Screening Date 16-Jun-2020

Docket No. 2020-0818-MLM-E

PCW

Respondent City of San Augustine (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 59457

PCW Revision September 1, 2019

Reg. Ent. Reference No. RN103779302

Media Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.42(m) and 290.43(e)

Violation Description

Failed to provide an intruder-resistant fence or well house around each treatment plant, well unit, potable water treatment plant, pressure maintenance facility and related appurtenances that remains locked during periods of darkness and when the facility is unattended. Specifically, the intruder-resistant fence at Highway 147 had one strand of barbed wire around the plant, and gaps were noted under the fences at the Highway 96 Elevated Storage Tank and the Light Plant Ground Storage Tank.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential		x		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes

Failure to provide an intruder-resistant fence or well house around each treatment plant, well unit, potable water treatment plant, pressure maintenance facility and related appurtenances could result in contamination of the facilities exposing persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 3 28 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,250

Three quarterly events are recommended (one event per location), calculated from the date of the record review, May 19, 2020, to the date of screening, June 16, 2020.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,908

Violation Final Penalty Total \$3,713

This violation Final Assessed Penalty (adjusted for limits) \$3,713

## Economic Benefit Worksheet

**Respondent** City of San Augustine (PCW No. 1)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**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	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$7,200	19-Jul-2018	1-May-2022	3.79	\$91	\$1,817	\$1,908
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

#### Notes for DELAYED costs

The delayed cost includes the estimated amount to repair the intruder-resistant fencing at Highway 147, the Highway 96 Elevated Storage Tank, and the Light Plant Ground Storage Tank, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,200

**TOTAL**

\$1,908

Screening Date 16-Jun-2020

Docket No. 2020-0818-MLM-E

PCW

Respondent City of San Augustine (PCW No. 1)

Policy Revision 4 (April 2014)

Case ID No. 59457

PCW Revision September 1, 2019

Reg. Ent. Reference No. RN103779302

Media Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(3)

Violation Description Failed to ensure the discharge opening of the overflows were above the surface of the ground and were not subject to submergence. Specifically, the Hospital Elevated Storage Tank overflow discharge opening was not located at a level which is not subject to submergence.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

Matrix Notes Failure to ensure all overflows are not subject to submergence could allow a significant amount of contaminants to enter the water supply which would not exceed levels protective of human health

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1 28 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event).

Violation Base Penalty \$750

One quarterly event is recommended, calculated from the date of the record review, May 19, 2020, to the date of screening, June 16, 2020.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Effort Type (Extraordinary, Ordinary, N/A) and status (Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer).

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$406

Violation Final Penalty Total \$1,238

This violation Final Assessed Penalty (adjusted for limits) \$1,238

## Economic Benefit Worksheet

**Respondent** City of San Augustine (PCW No. 1)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,500	18-Jul-2018	1-Jun-2022	3.87	\$19	\$387	\$406
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the amount to relocate the discharge opening of the overflow at the Hospital Elevated Storage Tank, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,500

**TOTAL**

\$406



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	15-Jun-2020	<b>Screening</b>	16-Jun-2020	<b>EPA Due</b>	
	<b>PCW</b>	16-Jun-2020				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of San Augustine (PCW No. 2)				
<b>Reg. Ent. Ref. No.</b>	RN103779302				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	59457	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2020-0818-MLM-E	<b>Order Type</b>	Findings	
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Epifanio Villarreal	
		<b>EC's Team</b>	Enforcement Team 8	
<b>Admin. Penalty \$ Limit</b>	<b>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>	\$10
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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>	65.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$6
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Notes: Enhancement for three NOV's with same or similar violations and two agreed orders without a denial of liability.

<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: \$9  
 Estimated Cost of Compliance: \$45  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$16
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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>	\$16
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$50
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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.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$50
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**Screening Date** 16-Jun-2020

**Docket No.** 2020-0818-MLM-E

**PCW**

**Respondent** City of San Augustine (PCW No. 2)

*Policy Revision 4 (April 2014)*

**Case ID No.** 59457

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN103779302

**Media** Public Water Supply

**Enf. Coordinator** Epifanio Villarreal

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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	0	0%
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	2	50%
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%
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)** 65%

#### >> 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 same or similar violations and two agreed orders without a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 65%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 65%

**Screening Date** 16-Jun-2020 **Docket No.** 2020-0818-MLM-E **PCW**  
**Respondent** City of San Augustine (PCW No. 2) *Policy Revision 4 (April 2014)*  
**Case ID No.** 59457 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN103779302  
**Media** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

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

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
<input type="text" value="At least 70% of the rule requirements were met."/>					
<b>Adjustment</b>					<input type="text" value="\$990"/>

**Violation Events**

Number of Violation Events        Number of violation days  

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 type="text" value="x"/>

**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"/>	<input type="text"/>
Notes	<input type="text" value="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 San Augustine (PCW No. 2)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**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	Costs Saved	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	\$45	19-Jul-2018	1-May-2022	3.79	\$9	n/a	\$9
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to maintain water system operation and maintenance records and make them immediately available for inspection upon request by the Executive Director, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$45

**TOTAL** \$9



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

<b>DATES</b>	<b>Assigned</b>	20-Jul-2020	<b>Screening</b>	20-Jul-2020	<b>EPA Due</b>	30-Jun-2020
	<b>PCW</b>	20-Jul-2020				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of San Augustine (PCW No. 3)				
<b>Reg. Ent. Ref. No.</b>	RN103779302				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	59457	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2020-0818-MLM-E	<b>Order Type</b>	Findings	
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Epifanio Villarreal	
		<b>EC's Team</b>	Enforcement Team 8	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,500
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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>	65.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$975
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Notes: Enhancement for three NOVs with the same/similar violations and two agreed orders without a denial of liability.

<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	\$1,226
Estimated Cost of Compliance	\$5,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,475
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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>	\$2,475
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,475
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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.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$2,475
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Screening Date 20-Jul-2020

Docket No. 2020-0818-MLM-E

PCW

Respondent City of San Augustine (PCW No. 3)

Policy Revision 4 (April 2014)

Case ID No. 59457

PCW Revision September 1, 2019

Reg. Ent. Reference No. RN103779302

Media Public Water Supply

Enf. Coordinator Epifanio Villarreal

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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	0	0%
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	2	50%
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%
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) 65%

#### >> 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 and two agreed orders without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 65%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 65%

**Screening Date** 20-Jul-2020 **Docket No.** 2020-0818-MLM-E **PCW**  
**Respondent** City of San Augustine (PCW No. 3) *Policy Revision 4 (April 2014)*  
**Case ID No.** 59457 *PCW Revision September 1, 2019*  
**Reg. Ent. Reference No.** RN103779302  
**Media** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)  
**Violation Description** Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligram per liter ("mg/L") for total trihalomethanes ("TTHM") based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts at Site 1 were 0.083 mg/L for the third quarter of 2019, 0.081 mg/L for the fourth quarter of 2019, and 0.082 mg/L for the first quarter of 2020.  
**Base Penalty** \$5,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		30.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.

**Adjustment** \$3,500

\$1,500

**Violation Events**

Number of Violation Events 1      274 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

**Violation Base Penalty** \$1,500

One annual 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	

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

**Violation Subtotal** \$1,500

**Economic Benefit (EB) for this violation      Statutory Limit Test**

**Estimated EB Amount** \$1,226      **Violation Final Penalty Total** \$2,475

**This violation Final Assessed Penalty (adjusted for limits)** \$2,475

# Economic Benefit Worksheet

**Respondent** City of San Augustine (PCW No. 3)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**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	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	30-Sep-2019	1-Apr-2023	3.50	\$58	\$1,168	\$1,226
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$1,226



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	15-Jun-2020	<b>Screening</b>	16-Jun-2020	<b>EPA Due</b>	
	<b>PCW</b>	16-Jun-2020				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of San Augustine (PCW No. 4)
<b>Reg. Ent. Ref. No.</b>	RN103779302
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59457	<b>No. of Violations</b>	1
<b>Docket No.</b>	2020-0818-MLM-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>	Public Water Supply	<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 8
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,250
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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>	65.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$812
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Notes: Enhancement for three NOVs with the same/similar violations and two agreed orders without a denial of liability.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<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%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$1,703  
 Estimated Cost of Compliance: \$10,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,062
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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>	\$2,062
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,062
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<b>DEFERRAL</b>	0.0%	<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$2,062
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**Screening Date** 16-Jun-2020

**Docket No.** 2020-0818-MLM-E

**PCW**

**Respondent** City of San Augustine (PCW No. 4)

*Policy Revision 4 (April 2014)*

**Case ID No.** 59457

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN103779302

**Media** Water Quality

**Enf. Coordinator** Epifanio Villarreal

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	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	0	0%
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	2	50%
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%
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)** 65%

>> **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 and two agreed orders without a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 65%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 65%

Screening Date 16-Jun-2020

Docket No. 2020-0818-MLM-E

PCW

Respondent City of San Augustine (PCW No. 4)

Policy Revision 4 (April 2014)

Case ID No. 59457

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103779302

Media Water Quality

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)

Violation Description Failed to prevent an unauthorized discharge of wastewater from the surface water treatment plant filters. Specifically, the filter backwash water was being discharged at a volume higher than what the filter-to-waste discharge drain could handle. Additionally, the water was not going into the backwash pond, but instead all over the ground and plant facilities.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	5.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes The unauthorized discharge from the Facility's surface water treatment process has exposed human health or the environment to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 28

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended, calculated from the date of the record review, May 19, 2020, to the date of screening, June 16, 2020.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,703

Violation Final Penalty Total \$2,063

This violation Final Assessed Penalty (adjusted for limits) \$2,063

## Economic Benefit Worksheet

**Respondent** City of San Augustine (PCW No. 4)  
**Case ID No.** 59457  
**Reg. Ent. Reference No.** RN103779302  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other	\$5,000	19-May-2020	1-Apr-2022	1.87	\$31	\$623	\$654
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)	\$5,000	19-Jul-2018	28-Sep-2022	4.20	\$1,049	n/a	\$1,049

Notes for DELAYED costs

The Other (as needed) delayed cost includes the estimated amount to cease the unauthorized discharge from the Facility and dispose of it at an authorized facility, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

The Other delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the unauthorized discharge, calculated from the date of the record review to the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$1,703



# Compliance History Report

Compliance History Report for CN600630289, RN103779302, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600630289, City of San Augustine	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	18.77
<b>Regulated Entity:</b>	RN103779302, CITY OF SAN AUGUSTINE	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	OFF FM 2213 2.5 MILES S OF THE CITY OF SAN AUGUSTINE NEXT TO CITY LAKE SAN AUGUSTINE, TX, SAN AUGUSTINE COUNTY				
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2030001				

<b>Compliance History Period:</b>	September 01, 2015 to August 31, 2020	<b>Rating Year:</b>	2020	<b>Rating Date:</b>	09/01/2020
<b>Date Compliance History Report Prepared:</b>	October 28, 2020				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	October 28, 2015 to October 28, 2020				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	EPIFANIO VILLARREAL			<b>Phone:</b>	(361) 825-3421

## 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  |

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

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

- 1 Effective Date: 02/04/2016 ADMINORDER 2015-1136-PWS-E (Findings Order-Agreed Order Without Denial)  
 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 2Q2015 - During the second quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.113 mg/L at Baseball Complex (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 1Q2015 - During the first quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.106 mg/L at Baseball Complex (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 4Q2014 - During the fourth quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.099 mg/L at Baseball Complex (DBP2-02).
  
- 2 Effective Date: 06/18/2019 ADMINORDER 2018-1067-PWS-E (Findings Order-Agreed Order Without Denial)  
 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 1Q2018 - During the first quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: TTHM DBP2 MCL PN 1Q2018 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the first quarter of 2018.

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 2Q2018 - During the second quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.091 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01); and violated the maximum contaminant level for trihalomethanes with a LRAA of 0.083 mg/L at Baseball Complex HWY 21, San Augustine (DBP2-02).

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 2 July 05, 2018 (1497206)

**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: 12/04/2019 (1639880)  
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 3Q2019 During the 3rd quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.083 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).
- 2 Date: 01/28/2020 (1639880)  
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 4Q2019 During the 4th quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.081 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).
- 3 Date: 03/19/2020 (1639880)  
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 1Q2020 During the 1st quarter of 2020 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).

**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:**

*Compliance History Report for CN600630289, RN103779302, Rating Year 2020 which includes Compliance History (CH) components from October 28, 2015, through October 28, 2020. Ratings are pending Mass Classification.*

N/A

**Sites Outside of Texas:**

N/A

## Component Appendices

### Appendix A

#### All NOV's Issued During Component Period 10/28/2015 and 10/28/2020

- 1 Date: 04/13/2018 (1493524)  
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 1Q2018 - During the first quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).
- 2 Date: 05/29/2018 (1493524)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: TTHM DBP2 MCL PN 1Q2018 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for trihalomethanes during the first quarter of 2018.
- 3 Date: 07/10/2018 (1493524)  
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 2Q2018 - During the second quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.091 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01); and violated the maximum contaminant level for trihalomethanes with a LRAA of 0.083 mg/L at Baseball Complex HWY 21, San Augustine (DBP2-02).
- 4 Date: 09/17/2018 (1513197)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
Description: Failure by the City of San Augustine to have operating records accessible for review upon request.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure by the City of San Augustine to all plant equipment in a water tight condition.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C)(i)  
Description: Failure by the City of San Augustine to maintain records of granted exceptions.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)  
Description: Failure by the City of San Augustine to flush all dead end mains on a monthly basis.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure by the City of San Augustine to maintain the clarifier in a good working condition and appearance.  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
Description: Failure by the City of San Augustine to prevent the discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)  
Description: Failure by the City of San Augustine to maintain the intruder resistant fences at the Highway 147 plant, Highway 96 elevated storage tank, and the Light Plant.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)  
Description: Failure by the City of San Augustine to equip the air injection line at the Highway 147 Booster Plant with a filter.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
Description: Failure by the City of San Augustine to terminate the overflows on the Hospital Elevated Storage Tank at a location where it cannot be submerged.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure by the City of San Augustine to ensure the good working condition and general appearance of the system's facilities and equipment.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
 Description: Failure by the City of San Augustine to maintain smaller than a 1/16 inch gap on the gravity-hinged weighted cover on the overflow located on the chlorine contact basin and the ground storage tank at the surface water treatment plant.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)  
 Description: Failure by the City of San Augustine to conduct annual accuracy tests on backflow prevention assemblies within the distribution system.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(5)(C)  
 Description: Failure by the City of San Augustine to have a continuous monitoring turbidimeter for the combined filter effluent.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
 Description: Failure by the City of San Augustine to maintain records of the accuracy checks conducted on the disinfectant residual analyzer every 90 days.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)  
 Description: Failure by the City of San Augustine to check the accuracy of the continuous disinfectant residual analyzer at least once every seven days or by comparing the results from the on-line analyzer.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)  
 Description: Failure by the City of San Augustine to have a restricted zone designated with signs recounting the restrictions.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(B)  
 Description: Failure by the City of San Augustine to employ at least one operator with a Class "C" surface water license.

5\* Date: 12/04/2019 (1639880)  
 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 3Q2019 During the 3rd quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.083 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).

6\* Date: 01/28/2020 (1639880)  
 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 4Q2019 During the 4th quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.081 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).

7\* Date: 03/19/2020 (1639880)  
 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 1Q2020 During the 1st quarter of 2020 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 437 ST HWY 147 S, San Augustine (DBP2-01).

\* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

**Appendix B**

**All Investigations Conducted During Component Period October 28, 2015 and October 28, 2020**

Item 1	April 26, 2016**	(1321726)
Item 2	November 28, 2016**	(1345060)
Item 3*	July 05, 2018**	(1497206)
Item 4	July 20, 2018**	(1493524)
Item 5	July 27, 2018**	(1504870)
Item 6	September 14, 2018**	(1513197)
Item 7	September 10, 2019**	(1592783)
Item 8	March 31, 2020**	(1639880)
Item 9	April 03, 2020**	(1640043)
Item 10	June 09, 2020**	(1650888)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF SAN AUGUSTINE  
RN103779302**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2020-0818-MLM-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of San Augustine (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including 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 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 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 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 off Farm-to-Market Road 2213, 2.5 miles south of the City of San Augustine next to Lake San Augustine, San Augustine County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 1,874 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(71). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on May 19, 2020, an investigator documented that:
  - a. The results of inspections for all water and pressure maintenance facilities and the Customer Service Inspection reports were not available on-site for review.

- b. According to the flushing log, the dates that flushing occurred did not correspond to the month listed on the form and not all dead-end mains were flushed during the month.
  - c. The caustic secondary containment and equipment had crystalized caustic over the equipment. In addition, the pressure tank at the Light Plant and the optional settling tank at the surface water treatment plant had been out of service for more than 120 days. In addition, the fences at the Hospital Booster Plant and Highway 96 Elevated Storage Tank were not kept free of vegetation.
  - d. The intruder-resistant fence at Highway 147 had one strand of barbed wire around the plant, and gaps were noted under the fences at the Highway 96 Elevated Storage Tank and the Light Plant Ground Storage Tank.
  - e. The Hospital Elevated Storage Tank overflow discharge opening was not located at a level which is not subject to submergence.
  - f. The filter backwash water was being discharged at a volume higher than what the filter-to-waste discharge drain could handle. Additionally, the water was not going into the backwash pond, but instead all over the ground and plant facilities.
3. During a record review conducted on March 23, 2020 through April 3, 2020, an investigator documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfection Byproducts at Site 1 were 0.083 milligram per liter ("mg/L") for the third quarter of 2019, 0.081 mg/L for the fourth quarter of 2019, and 0.082 mg/L for the first quarter of 2020.

## **II. CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 26, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a. 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)(D)(ii), and (f)(3)(E)(iv).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to flush all dead-end mains at monthly intervals, in violation of 30 TEX. ADMIN. CODE § 290.46(l).
4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m).

5. As evidenced by Finding of Fact No. 2.d, the Respondent failed to provide an intruder-resistant fence or well house around each treatment plant, well unit, potable water treatment plant, pressure maintenance facility and related appurtenances that remains locked during periods of darkness and when the facility is unattended, in violation of 30 TEX. ADMIN. CODE §§ 290.42(m) and 290.43(e).
6. As evidenced by Finding of Fact No. 2.e, the Respondent failed to ensure the discharge opening of the overflows were above the surface of the ground and were not subject to submergence, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3).
7. As evidenced by Finding of Fact No. 2.f, the Respondent failed to prevent an unauthorized discharge of wastewater from the surface water treatment plant filters, in violation of TEX. WATER CODE § 26.121(a).
8. As evidenced by Finding of Fact No. 3, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
9. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a) and TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of \$16,302 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) and TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, \$16,302 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A" - incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

### **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 10 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the 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

that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of San Augustine, Docket No. 2020-0818-MLM-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 an SEP as set forth in Section II, Conclusion of Law No. 10. The amount of \$16,302 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease the unauthorized discharge from the surface water treatment plant filters, in accordance with TEX. WATER CODE § 26.121.
  - b. Within 15 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.
  - c. Within 30 days after the effective date of this Order:
    - i. Compile and maintain properly completed water works operation and maintenance records and make them immediately available for inspection upon request by the Executive Director, including but not limited to the results of inspections for all water and pressure maintenance facilities and Customer Service Inspection reports, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - ii. Begin flushing all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels, in accordance with 30 TEX. ADMIN. CODE § 290.46. This provision will be satisfied upon three months of consecutive compliant monthly flushing;
    - iii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, including removing the crystalized caustic on the secondary containment and equipment, repairing or disconnecting the pressure tank at the Light Plant and the optional settling tank to the surface water

treatment plant, and removing the vegetation from the fences at the Hospital Booster Plant and the Highway 96 Elevated Storage Tank, in accordance with 30 TEX. ADMIN. CODE § 290.46; and

- iv. Repair the intruder-resistant fences at Highway 147, Highway 96 Elevated Storage Tank, and Light Plant Ground Storage Tank, in accordance with 30 TEX. ADMIN. CODE §§ 290.42 and 290.43.
- d. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.c.i and 3.c.iii through 3.c.iv.
- e. Within 60 days after the effective date of this Order, relocate the discharge opening of the overflow for the Hospital Elevated Storage Tank, in accordance with 30 TEX. ADMIN. CODE § 290.43.
- f. Within 75 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.e.
- g. Within 135 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.ii.
- h. Within 180 days after the effective date of this Agreed Order, investigate, identify, and implement the necessary corrective actions to return to compliance with the unauthorized discharge.
- i. Within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 3.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.h.
- j. Within 365 days after the effective date of this Order, return to compliance with the MCL for TTHM based on a locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
- k. Within 380 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.j. The certification shall be signed by the 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 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 77703-1830

and a copy to:

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

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The 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.
6. The Respondent fails to comply with Ordering Provision Nos. 2, 3.a and 3.h in this Order within the prescribed schedule, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. 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 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
9. 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.
10. This 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 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.
11. 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.
12. 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

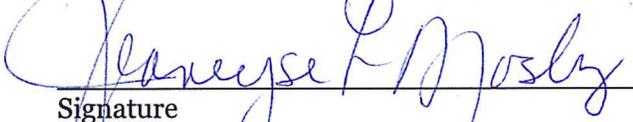
\_\_\_\_\_  
3/16/2022  
\_\_\_\_\_  
Date

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.

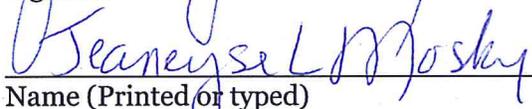
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- 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

\_\_\_\_\_  
2/25/2022  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Name (Printed or typed)

\_\_\_\_\_  
City Manager  
\_\_\_\_\_  
Title

Authorized Representative of  
City of San Augustine

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

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

**Attachment A**

**Docket Number: 2020-0818-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of San Augustine
<b>Penalty Amount:</b>	Sixteen Thousand Three Hundred Two Dollars (\$16,302)
<b>SEP Offset Amount:</b>	Sixteen Thousand Three Hundred Two Dollars (\$16,302)
<b>Type of SEP:</b>	Compliance
<b>Project Name:</b>	<i>WWTP Improvements</i>
<b>Location of SEP:</b>	San Augustine 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.

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 supply (the “Facility”) which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s Facility.

**1. Project Description**

**A. Project**

Respondent shall hire a contractor to clean up and properly dispose of caustic materials from the Facility’s caustic containment area. Disposal of the caustic crystallization by a licensed hazmat service will eliminate the need to pass neutralized material back into the lake via the sludge lagoon. The contractor will also remove and properly dispose of vegetation from the perimeter fence at the Facility, and the fences at the Hospital Booster Plant and the Highway 96 Elevated Storage Tank. The contractor will also perform repairs to the fences at Highway 147, the Highway 96 Elevated Storage Tank, and the Light Plant Ground Storage Tank. The contractor will also relocate the discharge opening of the overflow at the Hospital Booster Plant. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: caustic cleanup and disposal, vegetation cleanup and disposal, fence repairs, and discharge relocation (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. 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, including permits that may be required prior to commencement of the SEP.

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 access to safe drinking water. Safe, reliable drinking water is necessary for human health and household sanitation. Untreated water may harbor bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from illnesses like gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. Safe water is also necessary in the home for bathing, flushing toilets, washing hands, and cooking.

**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**

<b>Item</b>	<b>Quantity</b>	<b>Cost</b>	<b>Units</b>	<b>Total</b>
Caustic Cleanup and Disposal	1	\$4,500	Lump Sum	\$4,500
Vegetation Cleanup at the Highway 96 Elevated Storage Tank	1000	\$2	Linear Feet	\$2,000
Vegetation Cleanup at the Hospital Booster Plant	1000	\$2	Linear Feet	\$2,000
Fence Repair at Highway 147	100	\$6	Linear Feet	\$600
Fence Repair at the Highway 96 Elevated Storage Tank	1000	\$6	Linear Feet	\$6,000
Fence Repair at the Light Plant Ground Storage Tank	100	\$6	Linear Feet	\$600
Discharge Outlet Relocation at the Hospital Booster Plant	1	\$1,500	Lump Sum	\$1,500
<b>Total</b>				<b>\$17,200</b>

**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 75 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 75 days Respondent shall submit a Final Report to the TCEQ containing detailed information on all actions completed on the Project.

**Reporting Schedule**

<b>Days from Effective Order Date</b>	<b>Information Required</b>
30	Notice of Commencement describing actions taken to begin project
75	Notice of SEP completion

**B. Final Report**

Within 75 days after the effective date of the Agreed Order, or within 30 days after completion of the 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 or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. Detailed map showing specific location of the project site(s);
7. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials;
8. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
9. 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.