

Executive Summary – Enforcement Matter – Case No. 59903

City of Nome

RN101387843

Docket No. 2020-1270-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three repeated enforcement actions (or two orders with nuisance violations) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Nome PWS, 2577 Highway 365, Nome, Jefferson County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 13, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,695

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$7,695

Name of SEP: Cleanup of Illegal Dumpsites and Tire Collection Event (Custom)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 14, 2020 through September 25, 2020

Date(s) of NOE(s): September 25, 2020

Violation Information

Executive Summary – Enforcement Matter – Case No. 59903

City of Nome

RN101387843

Docket No. 2020-1270-PWS-E

1. Failed to achieve a turbidity level of combined filter effluent ("CFE") that was less than 1.0 nephelometric turbidity unit ("NTU") [30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

2. Failed to achieve a turbidity level of CFE that was less than 0.3 NTU in at least 95% of the samples tested [30 TEX. ADMIN. CODE § 290.111(e)(1)(B) 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. Within 30 days:

i. Determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and begin maintaining the turbidity level of CFE so that all samples tested are less than 1.0 NTU. This provision will be satisfied upon one month of compliant treatment; and

ii. Determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and begin maintaining the turbidity level of CFE so that at least 95% of the samples tested each month are 0.3 NTU or less. This provision will be satisfied upon one month of compliant treatment.

b. Within 75 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Samantha Salas, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1543; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Adena Crider, Litigation Division, MC 175, (512) 239-0648

Respondent: The Honorable Kerry Abney, Mayor of Nome, City of Nome, P.O. Box D, Nome, Texas 77629-0218

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	28-Sep-2020	Screening	29-Sep-2020	EPA Due	31-Dec-2020
	PCW	29-Sep-2020				

RESPONDENT/FACILITY INFORMATION

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

CASE INFORMATION

Enf./Case ID No.	59903	No. of Violations	2
Docket No.	2020-1270-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samantha Salas
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,750
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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.

Compliance History	62.0%	Adjustment	Subtotals 2, 3, & 7	\$2,945
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Notes	Enhancement for two NOV's with the same/similar violations, one NOV with a dissimilar violation, and two agreed orders without a denial of liability.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$12	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$200	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,695
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
Final Penalty Amount	\$7,695

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,695
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DEFERRAL	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.
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PAYABLE PENALTY	\$7,695
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Screening Date	29-Sep-2020	Docket No.	2020-1270-PWS-E	PCW
Respondent	City of Nome			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	59903			<i>PCW Revision September 1, 2019</i>
Reg. Ent. Reference No.	RN101387843			
Media	Public Water Supply			
Enf. Coordinator	Samantha Salas			

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>)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 62%

>> 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 two NOVs with the same/similar violations, one NOV with a dissimilar violation, and two agreed orders without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 62%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 62%

Screening Date	29-Sep-2020	Docket No.	2020-1270-PWS-E	PCW																	
Respondent	City of Nome	Policy Revision 4 (April 2014) PCW Revision September 1, 2019																			
Case ID No.	59903																				
Reg. Ent. Reference No.	RN101387843																				
Media	Public Water Supply																				
Enf. Coordinator	Samantha Salas																				
Violation Number	1																				
Rule Cite(s)	30 Tex. Admin. Code § 290.111(e)(1)(A) and Tex. Health & Safety Code § 341.0315(c)																				
Violation Description	Failed to achieve a turbidity level of combined filter effluent ("CFE") that is less than 1.0 nephelometric turbidity unit ("NTU"). Specifically, the CFE exceeded 1.0 NTU for four days in June 2020 and nine days in July 2020.																				
Base Penalty				\$5,000																	
>> Environmental, Property and Human Health Matrix																					
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th colspan="3" style="text-align: center;">Harm</th> </tr> <tr> <td style="text-align: center;">Release</td> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black; text-align: center;">x</td> <td style="border: 1px solid black;"></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual				Potential		x		Percent 5.0%
		Harm																			
	Release	Major	Moderate	Minor																	
Actual																					
Potential		x																			
>> Programmatic Matrix																					
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <th style="text-align: center;">Falsification</th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> </tr> <tr> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> </tr> </table>					Falsification	Major	Moderate	Minor						Percent 0.0%						
	Falsification	Major	Moderate	Minor																	
Matrix Notes	Failure to maintain required turbidity levels could expose persons served by the Facility to a significant amount of contaminants that would not exceed levels that are protective of human health.																				
Adjustment				\$4,750																	
				\$250																	
Violation Events																					
Number of Violation Events		13	Number of violation days																		
		13																			
	<div style="border: 1px solid black; padding: 2px;">daily</div> <div style="border: 1px solid black; padding: 2px;">weekly</div> <div style="border: 1px solid black; padding: 2px;">monthly</div> <div style="border: 1px solid black; padding: 2px;">quarterly</div> <div style="border: 1px solid black; padding: 2px;">semiannual</div> <div style="border: 1px solid black; padding: 2px;">annual</div> <div style="border: 1px solid black; padding: 2px;">single event</div>	<div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px;"></div> <div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>			Violation Base Penalty	\$3,250															
Thirteen single events are recommended (one event per day).																					
Good Faith Efforts to Comply		0.0%	Reduction \$0																		
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer																			
	Extraordinary																				
	Ordinary																				
	N/A	x																			
	Notes	The Respondent does not meet the good faith criteria for this violation.																			
Violation Subtotal				\$3,250																	
Economic Benefit (EB) for this violation		Statutory Limit Test																			
Estimated EB Amount		\$6	Violation Final Penalty Total \$5,265																		
This violation Final Assessed Penalty (adjusted for limits)				\$5,265																	

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 59903
Reg. Ent. Reference No. RN101387843
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$100	30-Jun-2020	10-Aug-2021	1.11	\$6	n/a	\$6

Notes for DELAYED costs

The Other (as needed) delayed cost includes the estimated amount to determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and maintain a CFE that is less than 1.0 NTU at all times, calculated from the last date of the first month 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

\$100

TOTAL

\$6

Screening Date 29-Sep-2020 Respondent City of Nome Case ID No. 59903 Reg. Ent. Reference No. RN101387843 Media Public Water Supply Enf. Coordinator Samantha Salas	Docket No. 2020-1270-PWS-E	PCW <i>Policy Revision 4 (April 2014)</i> <i>PCW Revision September 1, 2019</i>		
Violation Number <input type="text" value="2"/>				
Rule Cite(s) 30 Tex. Admin. Code § 290.111(e)(1)(B) and Tex. Health & Safety Code § 341.0315(c)				
Violation Description Failed to achieve a turbidity level of CFE that is less than 0.3 NTU in at least 95% of the samples tested during the months of June 2020 and July 2020.				
Base Penalty		<input type="text" value="\$5,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="15.0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0.0%"/>	
Matrix Notes	Failure to maintain required turbidity levels in at least 95% of samples tested each month could expose persons served by the Facility to contaminants that would exceed levels that are protective of human health.			
Adjustment		<input type="text" value="\$4,250"/>		
		<input type="text" value="\$750"/>		
Violation Events				
Number of Violation Events		<input type="text" value="2"/>	<input type="text" value="61"/> 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		<input type="text" value="\$1,500"/>		
Two single events are recommended.				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction <input type="text" value="\$0"/>	
	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	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		<input type="text" value="\$1,500"/>		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$6"/>	Violation Final Penalty Total <input type="text" value="\$2,430"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,430"/>		

Economic Benefit Worksheet

Respondent City of Nome
Case ID No. 59903
Reg. Ent. Reference No. RN101387843
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$100	30-Jun-2020	10-Aug-2021	1.11	\$6	n/a	\$6

Notes for DELAYED costs

The Other (as needed) delayed cost includes the estimated amount to determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and maintain a CFE that is 0.3 NTU or less in at least 95% of the samples tested each month, calculated from the last date of the first month 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

\$100

TOTAL

\$6



Compliance History Report

Compliance History Report for CN600671887, RN101387843, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600671887, City of Nome **Classification:** SATISFACTORY **Rating:** 2.50

Regulated Entity: RN101387843, City of Nome **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 2577 Highway 365 near Nome, Jefferson County, Texas

TCEQ Region: REGION 10 - BEAUMONT

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

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: September 28, 2020

Agency Decision Requiring Compliance History: Amanda Conner

Component Period Selected: September 28, 2015 to September 28, 2020

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Amanda Conner **Phone:** (512) 676-7487

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: 09/13/2016 ADMINORDER 2015-1585-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vi)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(ii)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)

Description: Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(h)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(5)(C)(i)

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

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(5)
30 TAC Chapter 290, SubChapter F 290.122(f)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
30 TAC Chapter 290, SubChapter F 290.110(b)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(A)
5A THSC Chapter 341, SubChapter A 341.0315(c)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(A)
30 TAC Chapter 290, SubChapter F 290.111(i)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)
30 TAC Chapter 290, SubChapter D 290.46(q)(3)
30 TAC Chapter 290, SubChapter F 290.122(a)(2)(A)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(6)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)(B)
30 TAC Chapter 290, SubChapter F 290.111(h)(9)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(6)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)(B)
30 TAC Chapter 290, SubChapter F 290.111(h)(9)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(6)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)(B)
30 TAC Chapter 290, SubChapter F 290.111(h)(9)

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

2 Effective Date: 04/27/2020 ADMINORDER 2018-1727-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: HAA5 LRAA MCL 3Q2018 - During the 3rd quarter of 2018 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.212 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.222 mg/L at 23417 HWY 90, Nome (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 3Q2018 - During the 3rd quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.229 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.223 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 2Q2018 - During the 2nd quarter of 2018 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.239 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.244 mg/L at 23417 HWY 90, Nome (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 2Q2018 - During the 2nd quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.252 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.243 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 1Q2018 - During the 1st quarter of 2018 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.277 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.321 mg/L at 23417 HWY 90, Nome (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 1Q2018 - During the 1st quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.301 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.376 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 4Q2017 - During the 4th quarter of 2017 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.244 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.251 mg/L at 23417 HWY 90, Nome (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 4Q2017 - During the 4th quarter of 2017 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.311 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.335 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 3Q2017 - During the 3rd quarter of 2017 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.168 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.174 mg/L at 23417 HWY 90, Nome (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 3Q2017 - During the 3rd quarter of 2017 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.270 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.283 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 2Q2017 - During the 2nd quarter of 2017 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.172 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.168 mg/L at 23417 HWY 90, Nome (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 2Q2017 - During the 2nd quarter of 2017 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.348 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.260 mg/L at

23417 HWY 90, Nome (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: HAA5 LRAA MCL 1Q2017 - During the 1st quarter of 2017 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.170 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.243 mg/L at 23417 HWY 90, Nome (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 1Q2017 - During the 1st quarter of 2017 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.386 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.246 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 4Q2016 - During the 4th quarter of 2016 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.232 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.248 mg/L at 23417 HWY 90, Nome (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 4Q2016 - During the 4th quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.372 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.269 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 3Q2016 - During the 3rd quarter of 2016 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.269 mg/L at 4814 FM 1009, Nome (DBP2-01).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM LRAA MCL 3Q2016 - During the 3rd quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.362 mg/L at 4814 FM 1009, Nome (DBP2-01).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: HAA5 LRAA MCL 2Q2016 - During the 2nd quarter of 2016 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.232 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.301 mg/L at 23417 HWY 90, Nome (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 2Q2016 - During the 2nd quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.284 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.309 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 1Q2016 - During the 1st quarter of 2016 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.158 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.137 mg/L at 23417 HWY 90, Nome (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 1Q2016 - During the 1st quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.161 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.169 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 4Q2015 - During the 4th quarter of 2015 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.068 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.107 mg/L at 23417 HWY 90, Nome (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 4Q2015 - During the 4th quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.098 mg/L at 4814 FM 1009, Nome (DBP2-01) and with a LRAA of 0.094 mg/L at

23417 HWY 90, Nome (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: HAA5 LRAA MCL 3Q2015 - During the 3rd quarter of 2015 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.062 mg/L at 23417 HWY 90, Nome (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: HAA5 LRAA MCL 3Q2016 - During the 3rd quarter of 2016 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.291 mg/L at 23417 HWY 90, Nome (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 3Q2016 - During the 3rd quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.272 mg/L at 23417 HWY 90, Nome (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 02, 2018 (1496763)

Item 3 November 08, 2018 (1524662)

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: 12/06/2019 (1612145)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure by the City of Nome to maintain plant equipment in a good working condition.
- 2 Date: 08/14/2020 (1677657)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(A)
Description: SWTR Non-acute TT Violation 06/2020 - 4 day(s) with combined filter effluent turbidity readings above 1.0 NTU at SWTP - 2577 HWY 365 (TP14941).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(B)
Description: SWTR Non-acute TT Violation 06/2020 - 15.0 % of combined filter effluent turbidity readings for the month were above 0.3 NTU at SWTP - 2577 HWY 365 (TP14941).
- 3 Date: 09/08/2020 (1677657)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(A)
Description: SWTR Non-acute TT Violation 07/2020 - 9 day(s) with combined filter effluent turbidity readings above 1.0 NTU at SWTP - 2577 HWY 365 (TP14941).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(B)
Description: SWTR Non-acute TT Violation 07/2020 - 23.7 % of combined filter effluent turbidity readings for the month were above 0.3 NTU at SWTP - 2577 HWY 365 (TP14941).

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

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

AGREED ORDER DOCKET NO. 2020-1270-PWS-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 Nome (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this 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 at 2577 Highway 365 near Nome, Jefferson County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 282 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).
2. During a record review conducted on September 14, 2020 through September 25, 2020, an investigator documented that:
 - a. The combined filter effluent ("CFE") exceeded 1.0 nephelometric turbidity unit ("NTU") for four days in June 2020 and nine days in July 2020.
 - b. The CFE was not less than 0.3 NTU in at least 95% of the samples tested during the months of June 2020 and July 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 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to achieve a turbidity level of CFE that was less than 1.0 NTU, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to achieve a turbidity level of CFE that was less than 0.3 NTU in at least 95% of the samples tested, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), 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.
5. An administrative penalty in the amount of \$7,695 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). Pursuant to TEX. WATER CODE § 7.067, \$7,695 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. 5 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 Nome, Docket No. 2020-1270-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete the SEP as set forth in Conclusion of Law No. 5. The amount of \$7,695 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. Within 30 days of the effective date of this Order:
 - i. Determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and begin maintaining the turbidity level of CFE so that all samples tested are less than 1.0 NTU, in accordance with 30 TEX. ADMIN. CODE § 290.111. This provision will be satisfied upon one month of compliant treatment; and
 - ii. Determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and begin maintaining the turbidity level of CFE so that at least 95% of the samples tested each month are 0.3 NTU or less, in accordance with 30 TEX. ADMIN. CODE § 290.111. This provision will be satisfied upon one month of compliant treatment.
 - b. Within 75 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 Nos. 3.a.i and 3.a.ii. 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:

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

with 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 78711-30870

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 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.
7. 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.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. This Order, 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.
10. 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.

11. 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

12/17/2024

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

Date

Name (Printed or typed)

Title

Authorized Representative of
City of Nome

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

Attachment A
Docket Number: 2020-1270-PWS-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Nome
Penalty Amount:	\$7,695
SEP Offset Amount:	\$7,695
Type of SEP:	Custom
Project Name:	<i>Cleanup of Illegal Dumpsites and Tire Collection Event</i>
Location of SEP:	Jefferson County

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

1. Project Description

A. Project

Respondent shall perform the cleanup of illegal dumpsites in several areas within the city limits. The waste will be collected and properly disposed of at an authorized landfill. Additionally, the city will host a tire event, during which a designated contractor will provide roll-off trailers for the collection of tires from both illegal dumpsites and residents. Respondent will establish a designated drop-off location at City Hall. During the event, residents will have the opportunity to drop off materials at no cost to them. Respondent will work with contractors appropriately permitted and authorized to handle and properly dispose of all materials collected. Specifically, the SEP Offset Amount shall be used for collection, transportation, and proper disposal of waste, debris, and tires (the “Project”).

Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement or invitation for bids, including publication, related to the SEP must include the enforcement statement as stated below 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. The Commission’s approval and issuance of this Agreed Order shall not itself be construed to authorize any activity for which Respondent is required by statute or rule to obtain authorization from the Commission.

The event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, Publicity.

Respondent shall ensure that the collection event:

1. Is advertised to the public,
2. Occurs during daylight hours,
3. Offers to the public a convenient drop-off location, and
4. Uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed below in Subsection C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

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

B. Environmental Benefit

This SEP will provide a discernable environmental benefit by providing for the proper disposal of debris and waste. Ensuring proper disposal will reduce the potential dangers and health threats associated with non-regulated trash dumps which contaminate air and water and harbor disease carrying animals and insects.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above in Section 1.A 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. Costs in excess of the SEP Offset Amount shall not be grounds to relieve Respondent of its obligations to perform this SEP.

Estimated Cost Schedule

Item	Total
Cleanup of Illegal Dumpsites	\$4,250
Tire Collection and Disposal	\$3,450
Total	\$7,700

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 365 days after the effective date of this Agreed Order.

Executive Director ("ED") staff may grant an extension to any deadline for Respondent's performance of the SEP described herein, upon a written and substantiated showing of good cause. All requests for extensions must be made by Respondent and shall be made in writing to ED staff. Extensions are not effective until Respondent receives written approval from ED staff. The determination of what constitutes good cause rests solely with ED staff. Extension requests shall be sent to the SEP Coordinator by first class mail or electronic mail, at:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087
Email: sepreports@tceq.texas.gov

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 TCEQ describing actions performed to date to implement the Project. Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth above in Section 2, Performance Schedule. Thereafter, Respondent shall submit progress reports to TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth below in the Reporting Schedule table:

Reporting Schedule

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

B. Final Report

Within 365 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 TCEQ, which shall include the following:

1. An 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. A detailed map showing the specific location of the project site(s);
7. Dated photographs of the Project showing the collected materials;
8. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.;
9. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials;
10. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
11. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Submittals

Respondent shall submit all SEP reports and any additional information as requested to the SEP Coordinator at the address provided above.

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 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 above in Sections 2 through 4, the 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 the SEP Coordinator at the address provided above.

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 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 TCEQ or any other agency of the state or federal government.