

**Executive Summary – Enforcement Matter – Case No. 60476**  
**City of Tahoka**  
**RN101234847**  
**Docket No. 2021-0329-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

PWS

**Small Business:**

No

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

City of Tahoka PWS, 1200 Lockwood Street, Tahoka, Lynn 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:** August 20, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$5,200

**Amount Deferred for Naturally Occurring Inorganic Contaminants:** \$4,000

**Total Paid to General Revenue:** \$1,200

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Unsatisfactory

Site/RN - Unsatisfactory

**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:** February 1, 2021 through March 5, 2021

**Date(s) of NOE(s):** March 5, 2021

**Executive Summary – Enforcement Matter – Case No. 60476**  
**City of Tahoka**  
**RN101234847**  
**Docket No. 2021-0329-PWS-E**

***Violation Information***

1. Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
2. Failed to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the Executive Director ("ED") [30 TEX. ADMIN. CODE § 290.117(c)(2)(C), (h), and (i)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed, and the results are reported to the ED within ten days following the end of each monitoring period; and
  - ii. Collect the required number of lead and copper tap samples, have the samples analyzed, and report the results to the ED within ten days following the end of the monitoring period. This provision will be satisfied upon the timely delivery of all lead and copper tap sampling results to the ED for one compliant monitoring period.
- b. Within 45 days, submit written certification to demonstrate compliance with a.i.
- c. Within 180 days, submit an acceptable written plan, including a proposed schedule and any applicable planning materials, to the ED that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance within 1,095 days with the acute MCL for nitrate.
- d. Within 195 days, submit written certification to demonstrate compliance with c.

**Executive Summary – Enforcement Matter – Case No. 60476**  
**City of Tahoka**  
**RN101234847**  
**Docket No. 2021-0329-PWS-E**

- e. Within 365 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding action taken to provide water which meets the acute MCL for nitrate.
- f. Within 410 days, submit written certification to demonstrate compliance with a.ii.
- g. Within 1,095 days, return to compliance with the acute MCL for nitrate.
- h. Within 1,110 days, submit written certification to demonstrate compliance with g.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Ecko Beggs, Enforcement Division, Enforcement Team 2, MC R-06, (915) 834-4968; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** The Honorable John Baker, Mayor, City of Tahoka, P.O. Box 300, Tahoka, Texas 79373-0300

Julie Arrington, City Administrator, City of Tahoka, P.O. Box 300, Tahoka, Texas 79373-0300

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned PCW</b>	8-Mar-2021	<b>Screening</b>	9-Mar-2021	<b>EPA Due</b>	31-Mar-2021
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Tahoka
<b>Reg. Ent. Ref. No.</b>	RN101234847
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60476	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0329-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ecko Beggs
		<b>EC's Team</b>	Enforcement Team 2
<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>	\$2,500
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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>	60.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$1,500
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Notes: Enhancement for an Unsatisfactory Performer classification, two NOV's with the same/similar violations and two Agreed Orders containing 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	\$11,714
Estimated Cost of Compliance	\$40,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,000
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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>	\$4,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,000
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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>	\$4,000
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**Screening Date** 9-Mar-2021

**Docket No.** 2021-0329-PWS-E

**PCW**

**Respondent** City of Tahoka

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 60476

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101234847

**Media** Public Water Supply

**Enf. Coordinator** Ecko Beggs

### 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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
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)** 50%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Unsatisfactory Performer

**Adjustment Percentage (Subtotal 7)** 10%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for an Unsatisfactory Performer classification, two NOVs with the same/similar violations and two Agreed Orders containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 60%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 60%

Screening Date 9-Mar-2021  
Respondent City of Tahoka

Docket No. 2021-0329-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Case ID No. 60476  
Reg. Ent. Reference No. RN101234847

Media Public Water Supply  
Enf. Coordinator Ecko Beggs

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(2) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter ("mg/L") for nitrate. Specifically, the average concentration of the original and the confirmation sample for nitrate was 14 mg/L for the second quarter of 2020.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			50.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Exceeding the acute MCL for nitrate caused the persons served by the Facility to be exposed to pollutants which exceeded levels protective of human health.

Adjustment \$2,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 90

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11,714

Violation Final Penalty Total \$4,000

This violation Final Assessed Penalty (adjusted for limits) \$4,000

## Economic Benefit Worksheet

**Respondent** City of Tahoka  
**Case ID No.** 60476  
**Reg. Ent. Reference No.** RN101234847  
**Media** Public Water Supply  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$40,000	30-Jun-2020	4-Sep-2024	4.18	\$558	\$11,156	\$11,714
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 acute MCL for nitrate, calculated from the last day of the monitoring period 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

\$40,000

**TOTAL**

\$11,714



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned PCW</b>	8-Mar-2021	<b>Screening</b>	9-Mar-2021	<b>EPA Due</b>	31-Mar-2021
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Tahoka
<b>Reg. Ent. Ref. No.</b>	RN101234847
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60476	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0329-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ecko Beggs
		<b>EC's Team</b>	Enforcement Team 2
<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>\$750</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>60.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$450</b>
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Notes: Enhancement for an Unsatisfactory Performer classification, two NOVs with the same/similar violations and two Agreed Orders containing 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: \$128  
 Estimated Cost of Compliance: \$320  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,200</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>\$1,200</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,200</b>
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<b>DEFERRAL</b>	<b>0.0%</b> Reduction Adjustment	<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>\$1,200</b>
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**Screening Date** 9-Mar-2021

**Docket No.** 2021-0329-PWS-E

**PCW**

**Respondent** City of Tahoka

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 60476

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101234847

**Media** Public Water Supply

**Enf. Coordinator** Ecko Beggs

### 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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
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)** 50%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Unsatisfactory Performer

**Adjustment Percentage (Subtotal 7)** 10%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for an Unsatisfactory Performer classification, two NOVs with the same/similar violations and two Agreed Orders containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 60%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 60%

**Screening Date** 9-Mar-2021  
**Respondent** City of Tahoka  
**Case ID No.** 60476

**Docket No.** 2021-0329-PWS-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101234847  
**Media** Public Water Supply  
**Enf. Coordinator** Ecko Beggs

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 290.117(c)(2)(C), (h), and (i)(1)

**Violation Description** Failed to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2018 through December 31, 2020 monitoring period. Specifically, the Respondent collected only eight of the required ten lead and copper tap samples from the distribution system.

**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	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Failure to collect lead and copper tap samples could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

**Adjustment** \$4,250

\$750

**Violation Events**

Number of Violation Events 1 1095 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$750

One single event is recommended.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	x	

**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** \$64

**Violation Final Penalty Total** \$1,200

**This violation Final Assessed Penalty (adjusted for limits)** \$1,200

## Economic Benefit Worksheet

**Respondent** City of Tahoka  
**Case ID No.** 60476  
**Reg. Ent. Reference No.** RN101234847  
**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	\$100	1-Feb-2021	5-Oct-2021	0.67	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future lead and copper tap samples are collected by the Facility's personnel, analyzed, and reported to the Executive Director, calculated from the record review date 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	\$60	30-Sep-2020	9-Mar-2021	0.44	\$1	\$60	\$61
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount to collect and have analyzed the required lead and copper samples (\$30 per sample x two missed samples x one monitoring period), calculated from the last date in which sampling was required to the date of screening.

Approx. Cost of Compliance

\$160

**TOTAL**

\$64

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN601097934, RN101234847, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN601097934, City of Tahoka      **Classification:** UNSATISFACTORY      **Rating:** 67.22

**Regulated Entity:** RN101234847, CITY OF TAHOKA      **Classification:** UNSATISFACTORY      **Rating:** 201.67

**Complexity Points:** 3      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1200 LOCKWOOD STREET IN TAHOKA, LYNN COUNTY, TEXAS

**TCEQ Region:** REGION 02 - LUBBOCK

**ID Number(s):**  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 1530002

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

**Date Compliance History Report Prepared:** March 9, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 09, 2016 to March 09, 2021

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Ecko Beggs      **Phone:** (915) 834-4968

## 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:** 07/10/2018      **ADMINORDER** 2016-1571-MLM-E (1660 Order-Agreed Order With Denial)
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
  - Description:** Failed to obtain an exception, pursuant to 30 Tex. Admin. Code § 290.39(l), to blend water containing chloramines and water containing free chlorine.
  - Classification:** Major
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.42(c)(1)  
30 TAC Chapter 290, SubChapter F 290.111(a)(2)
  - Description:** Failed to provide a minimum treatment consisting of coagulation with direct filtration and adequate disinfection for groundwater under the influence of surface water.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(C)
  - Description:** Failed to ensure that no water well is located within 500 feet of animal feed lots. Specifically, cattle pens were located approximately 300 feet east of well No. 17.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
  - Description:** Failed to install a backflow prevention assembly ("BPA") or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 Tex. Admin. Code § 290.47(f). Specifically, the city fill line at the public swimming pool was not equipped with an air gap and an inspection of the Subway at 1405 Lockwood identified three cross-connection hazards that were not isolated or protected.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.44(h)(3)
  - Description:** Failed to provide overhead bulk water dispensing stations with an air gap between the filling outlet hose and the receiving tank to protect against back siphonage and cross-contamination. Specifically, the overhead bulk water

dispensing station was equipped with a flexible hose that extended down to within several feet of the ground and could easily be submerged.

Classification: Moderate

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

Description: Failed to plug or test an abandoned public water supply well owned by the system with cement according to 16 Tex. Admin. Code ch. 76. Specifically, a large diameter abandoned well was noted approximately 40 feet south of the 0.5 million gallon ("MG") ground storage tank ("GST") which had not been tested or plugged.

Classification: Moderate

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: The Respondent caused, suffered, allowed, or permitted the unauthorized disposal of municipal solid waste ("MSW"). Specifically, three cubic yards of MSW including toys, pallets, electrical wiring, plumbing fixtures, and shingles on a flatbed trailer and several mattresses were observed approximately 35 feet east of well No. 6, approximately 0.5 mile northeast of the City of Tahoka permitted landfill located on Farm-to-Market Road 400.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failed to obtain sanitary control easements that cover the land within 150 feet of the Facility's five wells.

Classification: Moderate

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

Description: Failed to complete customer service inspection certificates prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities using commission Form 20699.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failed to conduct an annual inspection of the 0.2 MG GST.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failed to calibrate the Facility's five well meters at least once every three years.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations.

Classification: Moderate

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

Description: Failed to create a nitrification action plan ("NAP") for systems distributing chloraminated water.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)

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

2 Effective Date: 06/30/2020 ADMINORDER 2019-1740-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

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

Description: Failure to flush dead-end mains on a monthly basis.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)

Description: Failure to maintain records of complaints.

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: Failure to maintain the required minimum total chlorine residual of 0.5 milligrams per liter (mg/L) throughout the distribution system at all times.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 2	March 02, 2018	(1471460)
Item 3	February 04, 2021	(1699558)

**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:	06/23/2020	(1701797)	
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(2)		
Description:	NO3 AMCL 2Q2020 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 14.9 mg/L collected on 06/18/2020 and a confirmation sample of 12.3 mg/L collected on 06/24/2020.		
  
- 2
 

Date:	01/28/2021	(1701797)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C) 30 TAC Chapter 290, SubChapter F 290.117(h) 30 TAC Chapter 290, SubChapter F 290.117(i)(1)		
Description:	LCR RD MR 3Y2020 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the triennial reduced monitoring period from 01/01/2018 to 12/31/2020 within the required timeline.		

**F. Environmental audits:**

N/A

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

N/A

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

N/A

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

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF TAHOKA  
RN101234847**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0329-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 Tahoka (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 1200 Lockwood Street in Tahoka, Lynn County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 1,048 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 February 1, 2021 through March 5, 2021, an investigator documented that:
  - a. The average concentration of the original and the confirmation sample for nitrate was 14 milligrams per liter ("mg/L") for the second quarter of 2020.

- b. The Respondent collected only eight of the required ten lead and copper tap samples from the distribution system for the January 1, 2018 through December 31, 2020 monitoring period.

## **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 comply with the acute maximum contaminant level ("MCL") of 10 mg/L for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed, and report the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(C), (h), and (i)(1).
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 \$5,200, 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). The Respondent paid \$1,200 of the penalty. The TCEQ has determined that Conclusion of Law No. 2 of this Order qualifies for 100% deferral. Therefore, the remaining amount of \$4,000 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Order, the Executive Director may demand payment of all or part of the conditionally deferred penalty.

## **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 Tahoka, Docket No. 2021-0329-PWS-E" to:



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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed, and the results are reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117; and
    - ii. Collect the required number of lead and copper tap samples, have the samples analyzed, and report the results to the Executive Director within ten days following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon the timely delivery of all lead and copper tap sampling results to the Executive Director for one compliant monitoring period.
  - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.h below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i.
  - c. Within 180 days after the effective date of this Order, submit an acceptable written plan, including a proposed schedule and any applicable planning materials, to the Executive Director that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance within 1,095 days after the effective date of this order with the acute MCL for nitrate to the addresses listed in Ordering Provision No. 2.h.
  - d. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h below to demonstrate compliance with Ordering Provision No. 2.c.
  - e. Within 365 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.h below. These reports shall include information regarding action taken to provide water which meets the acute MCL for nitrate.

- f. Within 410 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h below to demonstrate compliance with Ordering Provision No. 2.a.ii.
- g. Within 1,095 days after the effective date of this Agreed Order, return to compliance with the acute MCL for nitrate, in accordance with 30 TEX. ADMIN. CODE § 290.106.
- h. Within 1,110 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.g. The certification shall be 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:

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

- 3. All relief not expressly granted in this Order is denied.
- 4. The duties and provisions imposed by this Order shall apply to and be binding upon 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.
- 5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and

substantiated showing of good cause. All requests for extensions by 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.

6. 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.
7. 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.
8. 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.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
12/13/2021

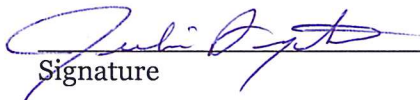
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
6-15-21  
Date

\_\_\_\_\_  
Julie Arrington  
Name (Printed or typed)  
Authorized Representative of  
City of Tahoka

\_\_\_\_\_  
City Administrator  
Title

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.