

**Executive Summary – Enforcement Matter – Case No. 60671**  
**El Paso Water Utilities Public Service Board**  
**RN109218115**  
**Docket No. 2021-0537-PWS-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

No

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

El Paso Water Utilities Water Hauling, 9751 Pan American Drive, El Paso, El Paso County

**Type of Operation:**

Public water supply that distributes drinking water by a tanker truck

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** January 7, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,660

**Amount Deferred for Expedited Settlement:** \$1,932

**Total Paid to General Revenue:** \$7,728

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** April 7, 2021

**Date(s) of NOE(s):** April 14, 2021

**Executive Summary – Enforcement Matter – Case No. 60671**  
**El Paso Water Utilities Public Service Board**  
**RN109218115**  
**Docket No. 2021-0537-PWS-E**

***Violation Information***

1. Failed to provide a tank vent that faces downward and is located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen. Specifically, the truck with license plate 122-6068 did not have a vent on the tank [30 TEX. ADMIN. CODE § 290.44(i)(2)(D)].
2. Failed to provide the openings of connections for filling and emptying the tank with caps and keeper chains to ensure they are properly protected to prevent the possible entrance of contamination. Specifically, a keeper chain to the cap was broken on each of the two trucks [30 TEX. ADMIN. CODE § 290.44(i)(2)(E)].
3. Failed to ensure that the discharge side of the pump is properly protected between uses by a protective cap and keeper chain. Specifically, a cap and keeper chain were not provided on the discharge side of the pump on one of the trailers [30 TEX. ADMIN. CODE § 290.44(i)(2)(G)].
4. Failed to ensure hoses used for the transfer of drinking water to and from the tank are used only for that purpose, are labeled for drinking water only, that the hoses conform to American National Standards Institute/National Sanitation Foundation Standard 61 and are certified by an entity recognized by the commission, that hoses and related appurtenances are cleaned and disinfected on a regular basis during prolonged use or before start-up during intermittent use, and are properly stored between uses and provided with caps and keeper chains or have the ends connected together [30 TEX. ADMIN. CODE § 290.44(i)(2)(H)].
5. Failed to maintain operational records detailing the amount of water hauled, purchases, microbiological sampling results, chlorine residual readings, dates of disinfection, and source of water [30 TEX. ADMIN. CODE § 290.44(i)(2)(L)].
6. Failed to provide the Facility's pressure tank with a pressure release device and an easily readable pressure gauge. Specifically, a pressure release device was not provided on either of the 119-gallon pressure tanks on the two trucks [30 TEX. ADMIN. CODE § 290.43(d)(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

**Executive Summary – Enforcement Matter – Case No. 60671**  
**El Paso Water Utilities Public Service Board**  
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a. Within 30 days:

i. Provide the openings of connections for filling and emptying the tank with caps and keeper chains to ensure they are properly protected to prevent the possible entrance of contamination, including but not limited to repairing or replacing the broken keeper chains on both trucks;

ii. Ensure a cap and keeper chain are provided on the discharge side of the pump;

iii. Ensure hoses used for the transfer of drinking water to and from the tank are used only for that purpose, are labeled for drinking water only, that the hoses conform to American National Standards Institute/National Sanitation Foundation Standard 61 and are certified by an entity recognized by the commission, that hoses and related appurtenances are cleaned and disinfected on a regular basis during prolonged use or before start-up during intermittent use, and are properly stored between uses and provided with caps and keeper chains or have the ends connected together;

iv. Begin maintaining operational records detailing the amount of water hauled, purchases, microbiological sampling results, chlorine residual readings, dates of disinfection, and source of water; and

v. Provide the pressure tank on each of the two trucks with a pressure release device.

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

c. Within 60 days, provide a vent on the water tank of the truck with license plate 122-6068 that faces downward and is located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen.

d. Within 75 days, submit written certification to demonstrate compliance with c.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Ryan Byer, Enforcement Division, Enforcement Team 8, MC 219, (512) 239-2571; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Felipe Lopez, Chief Operating Officer, El Paso Water Utilities Public Service Board, P.O. Box 511, El Paso, Texas 79961

John E. Balliew, President, El Paso Water Utilities Public Service Board, P.O. Box 511, El Paso, Texas 79961

**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</b>	19-Apr-2021	<b>Screening</b>	20-Apr-2021	<b>EPA Due</b>	
	<b>PCW</b>	21-Apr-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	El Paso Water Utilities Public Service Board
<b>Reg. Ent. Ref. No.</b>	RN109218115
<b>Facility/Site Region</b>	6-El Paso
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60671	<b>No. of Violations</b>	6
<b>Docket No.</b>	2021-0537-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ryan Byer
		<b>EC's Team</b>	Enforcement Team 8
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$9,200
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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>	5.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$460
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<b>Notes</b>	Enhancement for one NOV with the same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<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	\$188	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,775	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,660
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$9,660
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,660
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<b>DEFERRAL</b>	20.0%	Reduction	<b>Adjustment</b>	-\$1,932
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$7,728
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Screening Date 20-Apr-2021

Docket No. 2021-0537-PWS-E

PCW

Respondent El Paso Water Utilities Public Service Board

Policy Revision 5 (January 28, 2021)

Case ID No. 60671

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN109218115

Media Public Water Supply

Enf. Coordinator Ryan Byer

### 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> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 5%

#### >> 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 one NOV with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 5%

Screening Date 20-Apr-2021

Docket No. 2021-0537-PWS-E

PCW

Respondent El Paso Water Utilities Public Service Board

Policy Revision 5 (January 28, 2021)

Case ID No. 60671

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN109218115

Media Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.44(i)(2)(D)

Violation Description

Failed to provide a tank vent that faces downward and is located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen. Specifically, the truck with license plate 122-6068 did not have a vent on the tank.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide a vent on the water tank could allow a significant amount of contaminants to enter the water supply which would not exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1

13 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$750

One quarterly event is recommended, calculated from the date of the record review, April 7, 2021, to the date of screening, April 20, 2021.

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 \$57

Violation Final Penalty Total \$788

This violation Final Assessed Penalty (adjusted for limits) \$788

# Economic Benefit Worksheet

**Respondent** El Paso Water Utilities Public Service Board  
**Case ID No.** 60671  
**Reg. Ent. Reference No.** RN109218115  
**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)	\$500	15-Sep-2020	30-Apr-2022	1.62	\$3	\$54	\$57
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 provide a vent that faces downward and is located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$57

**Screening Date** 20-Apr-2021 **Docket No.** 2021-0537-PWS-E **PCW**  
**Respondent** El Paso Water Utilities Public Service Board *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60671 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Enf. Coordinator** Ryan Byer

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

**Base Penalty**

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

**OR**

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

**Percent**

**>> Programmatic Matrix**

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

**Percent**

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

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

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

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



# Economic Benefit Worksheet

**Respondent** El Paso Water Utilities Public Service Board  
**Case ID No.** 60671  
**Reg. Ent. Reference No.** RN109218115  
**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)	\$20	15-Sep-2020	30-Mar-2022	1.54	\$0	\$2	\$2
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** The delayed cost includes the estimated amount to repair or replace the broken keeper chains (\$10 per chain x two chains), calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** \$20

**TOTAL** \$2

**Screening Date** 20-Apr-2021 **Docket No.** 2021-0537-PWS-E **PCW**  
**Respondent** El Paso Water Utilities Public Service Board *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60671 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Enf. Coordinator** Ryan Byer

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.44(i)(2)(G)  
**Violation Description** Failed to ensure that the discharge side of the pump is properly protected between uses by a protective cap and keeper chain. Specifically, a cap and keeper chain were not provided on the discharge side of the pump on one of the trailers.

**Base Penalty** \$5,000

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential		x		<b>Percent</b> 15.0%

**>> Programmatic Matrix**

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

**Matrix Notes** Failure to provide the discharge side of the pump with a cap and chain could allow a significant amount of contaminants to enter the water supply which would not exceed levels protective of human health.

**Adjustment** \$4,250

\$750

**Violation Events**

Number of Violation Events 1 13 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$750

One quarterly event is recommended, calculated from the date of the record review, April 7, 2021, to the date of screening, April 20, 2021.

**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** \$8 **Violation Final Penalty Total** \$788

**This violation Final Assessed Penalty (adjusted for limits)** \$788

# Economic Benefit Worksheet

**Respondent** El Paso Water Utilities Public Service Board  
**Case ID No.** 60671  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$75	15-Sep-2020	30-Mar-2022	1.54	\$0	\$8	\$8
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 provide the discharge side of the pump with a protective cap and keeper chain, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$75

**TOTAL** \$8

**Screening Date** 20-Apr-2021 **Docket No.** 2021-0537-PWS-E **PCW**  
**Respondent** El Paso Water Utilities Public Service Board *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60671 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Enf. Coordinator** Ryan Byer

**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.44(i)(2)(H)  
**Violation Description** Failed to ensure hoses used for the transfer of drinking water to and from the tank are used only for that purpose, are labeled for drinking water only, that the hoses conform to American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 61 and are certified by an entity recognized by the commission, that hoses and related appurtenances are cleaned and disinfected on a regular basis during prolonged use or before start-up during intermittent use, and are properly stored between uses and provided with caps and keeper chains or have the ends connected together.

**Base Penalty** \$5,000

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

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Failure to ensure that hoses used for the transfer of drinking water to and from the tank meet all rule requirements could allow a significant amount of contaminants to enter the water supply which would not exceed levels protective of human health.

**Adjustment** \$4,250

\$750

**Violation Events**

Number of Violation Events 4 13 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,000

Four quarterly events are recommended (one for each truck and trailer), calculated from the date of the record review, April 7, 2021, to the date of screening, April 20, 2021.

**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** \$3,000

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

**Estimated EB Amount** \$64 **Violation Final Penalty Total** \$3,150

**This violation Final Assessed Penalty (adjusted for limits)** \$3,150

# Economic Benefit Worksheet

**Respondent** El Paso Water Utilities Public Service Board  
**Case ID No.** 60671  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$600	15-Sep-2020	30-Mar-2022	1.54	\$3	\$61	\$64
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 provide hoses used for the transfer of drinking water to and from the tank that meet all rule requirements (\$150 per hose x four vehicles), calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$600

**TOTAL** \$64

**Screening Date** 20-Apr-2021 **Docket No.** 2021-0537-PWS-E **PCW**  
**Respondent** El Paso Water Utilities Public Service Board *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60671 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Enf. Coordinator** Ryan Byer

**Violation Number** 5  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.44(i)(2)(L)  
**Violation Description** Failed to maintain operational records detailing the amount of water hauled, purchases, microbiological sampling results, chlorine residual readings, dates of disinfection, and source of water.

**Base Penalty** \$5,000

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0.0%
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 20.0%
<b>Matrix Notes</b>	100% of the rule requirements were not met.				

**Adjustment** \$4,000

\$1,000

**Violation Events**

Number of Violation Events 1 13 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$1,000

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** \$1,000

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

**Estimated EB Amount** \$14 **Violation Final Penalty Total** \$1,050

**This violation Final Assessed Penalty (adjusted for limits)** \$1,050

# Economic Benefit Worksheet

**Respondent** El Paso Water Utilities Public Service Board  
**Case ID No.** 60671  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

### 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	\$180	15-Sep-2020	30-Mar-2022	1.54	\$14	n/a	\$14
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed cost includes the estimated amount to maintain operational records, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$180

**TOTAL**

\$14

**Screening Date** 20-Apr-2021 **Docket No.** 2021-0537-PWS-E **PCW**  
**Respondent** El Paso Water Utilities Public Service Board *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60671 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Enf. Coordinator** Ryan Byer

**Violation Number** 6  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.43(d)(2)  
**Violation Description** Failed to provide the Facility's pressure tanks with a pressure release device and an easily readable pressure gauge. Specifically, a pressure release device was not provided on either of the 119-gallon pressure tanks on the two trucks.

**Base Penalty** \$5,000

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

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

**>> Programmatic Matrix**

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

**Matrix Notes** Failure to provide a pressure release device on the pressure tank could result in excess pressurization and expose persons served by the Facility to contaminants which would exceed levels protective of human health.

**Adjustment** \$3,500

\$1,500

**Violation Events**

Number of Violation Events 2 13 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,000

Two monthly events are recommended (one for each truck), calculated from the date of the record review, April 7, 2021, to the date of screening, April 20, 2021.

**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** \$3,000

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

**Estimated EB Amount** \$43 **Violation Final Penalty Total** \$3,150

**This violation Final Assessed Penalty (adjusted for limits)** \$3,150



# Economic Benefit Worksheet

**Respondent** El Paso Water Utilities Public Service Board  
**Case ID No.** 60671  
**Reg. Ent. Reference No.** RN109218115  
**Media** Public Water Supply  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$400	15-Sep-2020	30-Mar-2022	1.54	\$2	\$41	\$43
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount to provide the pressure tanks with a pressure release device (\$200 per device x two trucks), calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$400

**TOTAL** \$43



# Compliance History Report

Compliance History Report for CN600745392, RN109218115, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600745392, El Paso Water Utilities Public Service Board	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	0.90
<b>Regulated Entity:</b>	RN109218115, EL PASO WATER UTILITIES WATER HAULING	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	9751 PAN AMERICAN DR IN EL PASO, EL PASO COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 06 - EL PASO				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0710210				

<b>Compliance History Period:</b>	September 01, 2015 to August 31, 2020	<b>Rating Year:</b>	2020	<b>Rating Date:</b>	09/01/2020
<b>Date Compliance History Report Prepared:</b>	August 18, 2021				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	August 18, 2016 to August 18, 2021				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Ryan Byer			<b>Phone:</b>	(512) 239-2571

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

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

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

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

1	Date:	10/19/2020	(1677665)		
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.44(i)(2)(D)			
	Description:	Failure to provide the tank on the 2,000-gallon water truck (License Plate 122-6068) with a vent. The tank shall have a vent which is faced downward and located to minimize the possibility of drawing contaminants into the stored water. The vent must be screened with 16-mesh or finer corrosion-resistant material.			
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.44(i)(2)(E)			

Description:	Failure to provide the openings on connections for filling and emptying tanks with caps and keeper chains to prevent the possible entrance of contamination.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.44(i)(2)(G)		
Description:	Failure to provide the discharge side of pumps with a protective cap and keeper chain.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.44(i)(2)(H)		
Description:	Failure to properly maintain all hoses used for the transfer of drinking water. All hoses must be labeled drinking water only. The hoses shall conform to ANSI/NSF Standard 61 and must be certified by an entity recognized by the commission. Hoses and related appurtenances must be cleaned and disinfected on a regular basis during prolonged use or before start-up during intermittent use. Hoses must be properly stored between uses and must be provided with caps and keeper chains or have the ends c		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.44(i)(2)(I)		
Description:	Failure to disinfect all tanks monthly.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.44(i)(2)(J)		
Description:	Failure to take at least one sample per month from each tank for microbiological analysis to one of the commission's approved laboratories for each month of operation.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.44(i)(2)(L)		
Description:	Failure to maintain the following operational records: amount of water hauled, purchases, microbiological sampling results, chlorine residual readings, dates of disinfection, and source of water.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.43(d)(2)		
Description:	Failure to provide all pressure tanks with a pressure release device.		

**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  
EL PASO WATER UTILITIES  
PUBLIC SERVICE BOARD  
RN109218115**

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

## **AGREED ORDER DOCKET NO. 2021-0537-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding El Paso Water Utilities Public Service Board (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 together stipulate that:

1. The Respondent owns and operates a public water supply that distributes drinking water by a tanker truck located at 9751 Pan American Drive in El Paso, El Paso County, Texas (the "Facility"). The Facility provides water for human consumption, has one service connection, 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$9,660 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,728 of the penalty and \$1,932 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount 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 of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN.

CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

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 or conditions in this Order.
7. 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.
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.

## **II. ALLEGATIONS**

During a record review conducted on April 7, 2021, an investigator documented that the Respondent:

1. Failed to provide a tank vent that faces downward and is located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen, in violation of 30 TEX. ADMIN. CODE § 290.44(i)(2)(D). Specifically, the truck with license plate 122-6068 did not have a vent on the tank.
2. Failed to provide the openings of connections for filling and emptying the tank with caps and keeper chains to ensure they are properly protected to prevent the possible entrance of contamination, in violation of 30 TEX. ADMIN. CODE § 290.44(i)(2)(E). Specifically, a keeper chain to the cap was broken on each of the two trucks.
3. Failed to ensure that the discharge side of the pump is properly protected between uses by a protective cap and keeper chain, in violation of 30 TEX. ADMIN. CODE § 290.44(i)(2)(G). Specifically, a cap and keeper chain were not provided on the discharge side of the pump on one of the trailers.
4. Failed to ensure hoses used for the transfer of drinking water to and from the tank are used only for that purpose, are labeled for drinking water only, that the hoses conform to American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 61 and are certified by an entity recognized by the commission, that hoses and related appurtenances are cleaned and disinfected on a regular basis during prolonged use or before start-up during intermittent use, and are properly stored between uses and provided with caps and keeper chains or have the ends connected together, in violation of 30 TEX. ADMIN. CODE § 290.44(i)(2)(H).
5. Failed to maintain operational records detailing the amount of water hauled, purchases, microbiological sampling results, chlorine residual readings, dates of disinfection, and source of water, in violation of 30 TEX. ADMIN. CODE § 290.44(i)(2)(L).

6. Failed to provide the Facility's pressure tank with a pressure release device and an easily readable pressure gauge, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(2). Specifically, a pressure release device was not provided on either of the 119-gallon pressure tanks on the two trucks.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: El Paso Water Utilities Public Service Board, Docket No. 2021-0537-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. Provide the openings of connections for filling and emptying the tank with caps and keeper chains to ensure they are properly protected to prevent the possible entrance of contamination, including but not limited to repairing or replacing the broken keeper chains on both trucks, in accordance with 30 TEX. ADMIN. CODE § 290.44;
    - ii. Ensure a cap and keeper chain are provided on the discharge side of the pump, in accordance with 30 TEX. ADMIN. CODE § 290.44;
    - iii. Ensure hoses used for the transfer of drinking water to and from the tank are used only for that purpose, are labeled for drinking water only, that the hoses conform to ANSI/NSF Standard 61 and are certified by an entity recognized by the commission, that hoses and related appurtenances are cleaned and disinfected on a regular basis during prolonged use or before start-up during intermittent use, and are properly stored between uses and provided with caps and keeper chains or have the ends connected together, in accordance with 30 TEX. ADMIN. CODE § 290.44;

- iv. Begin maintaining operational records detailing the amount of water hauled, purchases, microbiological sampling results, chlorine residual readings, dates of disinfection, and source of water, in accordance with 30 TEX. ADMIN. CODE § 290.44; and
- v. Provide the pressure tank on each of the two trucks with a pressure release device, in accordance with 30 TEX. ADMIN. CODE § 290.43.
- b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.v.
- c. Within 60 days after the effective date of this Order, provide a vent on the water tank of the truck with license plate 122-6068 that faces downward and is located to minimize the possibility of drawing contaminants into the stored water with a 16-mesh or finer corrosion-resistant screen, in accordance with 30 TEX. ADMIN. CODE § 290.44.
- d. 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 No. 2.c. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 East Franklin Avenue, Suite 560  
El Paso, Texas 79901-1212

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. 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.
7. 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.
8. 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

\_\_\_\_\_  
6/8/2022

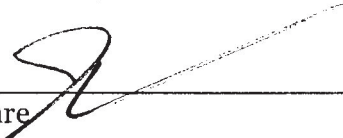
\_\_\_\_\_  
Date

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

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

\_\_\_\_\_  
Signature 

\_\_\_\_\_  
12/6/21  
Date

\_\_\_\_\_  
JOHN E. BALLIEW  
Name (Printed or typed)

\_\_\_\_\_  
PRESIDENT  
Title

Authorized Representative of  
El Paso Water Utilities Public Service Board

*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.