

**Executive Summary – Enforcement Matter – Case No. 63658**

**City of Galveston**

**RN101274249**

**Docket No. 2023-0267-PWS-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

No

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

City of Galveston PWS, 52nd Street and Avenue A, Galveston, Galveston 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:** September 8, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$17,250

**Amount Deferred for Expedited Settlement:** \$3,450

**Total Paid to General Revenue:** \$13,800

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Unclassified

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** January 27, 2022

**Complaint Information:** Alleged water odor, iron-colored water, stagnant water and no flushing.

**Date(s) of Investigation:** December 8, 2022 and December 14, 2022

**Date(s) of NOE(s):** January 27, 2023

**Executive Summary – Enforcement Matter – Case No. 63658**

**City of Galveston**

**RN101274249**

**Docket No. 2023-0267-PWS-E**

***Violation Information***

1. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, the Respondent failed to keep the elevated storage tank ("EST") at 10 Mile Road free of corrosion [30 TEX. ADMIN. CODE § 290.46(m)].

2. Failed to have a minimum nine-foot separation distance from a potable waterline to a wastewater main manhole or where the nine-foot separation distance cannot be achieved, failure to encase the potable waterline in a joint of at least 150 pounds per square inch ("psi") pressure class pipe at least 18 feet long and two nominal sizes larger than the new conveyance. Specifically, the potable waterline located at the intersection of Sealy Street and 23rd Street was placed directly through a wastewater line and without a casing. Additionally, wastewater debris had built up around the potable waterline [30 TEX. ADMIN. CODE § 290.44(e)(5)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, including but not limited to the repairing or replacing the EST at 10 Mile Road;
- b. Within 45 days, submit written certification to demonstrate compliance with a.
- c. Within 180 days, create a nine-foot separation distance between the potable waterline located at the intersection of Sealy Street and 23rd Street and the manhole, or encase the potable waterline in a joint of at least 150 psi pressure class pipe at least 18 feet long and two nominal sizes larger than the new conveyance; and
- d. Within 195 days, submit written certification to demonstrate compliance with c.

**Executive Summary – Enforcement Matter – Case No. 63658**  
**City of Galveston**  
**RN101274249**  
**Docket No. 2023-0267-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Ashley Lemke, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1118; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** The Honorable Craig Brown, Mayor, City of Galveston, P.O. Box 779, Galveston, Texas 77553

Daniel J. Buckley, Deputy City Manager, City of Galveston, P.O. Box 779, Galveston, Texas 77553

**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>	6-Feb-2023			
	<b>PCW</b>	16-Mar-2023	<b>Screening</b>	22-Feb-2023	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	City of Galveston				
<b>Reg. Ent. Ref. No.</b>	RN101274249				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	63658	<b>No. of Violations</b>	2		
<b>Docket No.</b>	2023-0267-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>	Ashley Lemke		
		<b>EC's Team</b>	Enforcement Team 4		
<b>Admin. Penalty \$</b>	<b>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>	\$17,250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>0.0%</b>	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes	No adjustment for compliance history.
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<b>Culpability</b>	No	<b>0.0%</b>	Enhancement	<b>Subtotal 4</b>	\$0
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Notes	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>	<b>0.0%</b>	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$48,482
Estimated Cost of Compliance	\$520,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$17,250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$17,250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$17,250
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<b>DEFERRAL</b>	<b>20.0%</b>	Reduction	<b>Adjustment</b>	-\$3,450
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$13,800
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Screening Date

22-Feb-2023

Docket No.

2023-0267-PWS-E

PCW

Respondent

City of Galveston

Case ID No.

63658

Reg. Ent. Reference No.

RN101274249

Media

Public Water Supply

Enf. Coordinator

Ashley Lemke

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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> )	0	0%
	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)0%

>> Repeat Violator (Subtotal 3)

NoAdjustment Percentage (Subtotal 3)0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory PerformerAdjustment Percentage (Subtotal 7)0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)0%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%0%

Screening Date		22-Feb-2023		Docket No.		2023-0267-PWS-E		PCW	
Respondent		City of Galveston		Policy Revision 5 (January 28, 2021)					
Case ID No.		63658		PCW Revision February 11, 2021					
Reg. Ent. Reference No.		RN101274249							
Media		Public Water Supply							
Enf. Coordinator		Ashley Lemke							
Violation Number		1							
Rule Cite(s)		30 Tex. Admin. Code § 290.46(m)							
Violation Description		Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. Specifically, the Respondent failed to keep the elevated storage tank ("EST") at 10 Mile Road free of corrosion.							
				Base Penalty		\$5,000			
>> Environmental, Property and Human Health Matrix									
OR		Release		Major		Moderate		Minor	
		Actual							
		Potential				x			
				Percent		15.0%			
>> Programmatic Matrix									
		Falsification		Major		Moderate		Minor	
				Percent		0.0%			
Matrix Notes		Failure to maintain the good working condition and general appearance of the Facility could expose persons served by the facility to significant amounts of contaminants which would not exceed levels protective of human health.							
				Adjustment		\$4,250			
						\$750			
Violation Events									
		Number of Violation Events		1		76		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 December 8, 2022, investigation date to the February 22, 2023, screening date.							
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									
		Estimated EB Amount		\$8,208		Violation Final Penalty Total		\$750	
				This violation Final Assessed Penalty (adjusted for limits)		\$750			

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. City of Galveston 63658 RN101274249 Public Water Supply 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)	\$20,000	9-Nov-2017	19-Sep-2023	5.86	\$391	\$7,817	\$8,208
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 EST at 10 Mile Road, calculated from the 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	\$20,000	TOTAL	\$8,208
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<b>Screening Date</b> 22-Feb-2023		<b>Docket No.</b> 2023-0267-PWS-E		<b>PCW</b>	
<b>Respondent</b> City of Galveston		<i>Policy Revision 5 (January 28, 2021)</i>			
<b>Case ID No.</b> 63658		<i>PCW Revision February 11, 2021</i>			
<b>Reg. Ent. Reference No.</b> RN101274249					
<b>Media</b> Public Water Supply					
<b>Enf. Coordinator</b> Ashley Lemke					
<b>Violation Number</b>		<input type="text" value="2"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 290.44(e)(5)"/>			
<b>Violation Description</b>		<input 18="" 23rd="" a="" additionally,="" and="" around="" at="" built="" casing.="" class="" conveyance.="" debris="" directly="" feet="" had="" intersection="" larger="" least="" line="" located="" long="" new="" nominal="" of="" pipe="" placed="" potable="" pressure="" psi")="" sealy="" sizes="" specifically,="" street="" than="" the="" through="" two="" type="text" up="" value="Failed to have a minimum nine-foot separation distance from a potable waterline to a wastewater main manhole or where the nine-foot separation distance cannot be achieved, failure to encase the potable waterline in a joint of at least 150 pounds per square inch (" was="" wastewater="" waterline="" waterline."="" without=""/>			
		<b>Base Penalty</b>		<input type="text" value="\$5,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Release</b>		<b>Harm</b>		
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="30.0%"/>
<b>&gt;&gt;Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>
Matrix Notes	<input type="text" value="Failure to ensure there is a nine-foot separation distance or encase the potable waterline which could result in backflow and siphonage to occur, thereby exposing persons served by the Facility to contaminants which would exceed levels that are protective of human health."/>				
					<b>Adjustment</b> <input type="text" value="\$3,500"/>
					<input type="text" value="\$1,500"/>
<b>Violation Events</b>					
Number of Violation Events		<input type="text" value="11"/>	<input type="text" value="76"/>		Number of violation days
	daily	<input type="text"/>			
	weekly	<input type="text" value="x"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
					<b>Violation Base Penalty</b> <input type="text" value="\$16,500"/>
<input type="text" value="Eleven weekly events are recommended, calculated from the December 8, 2022 investigation date to the February 22, 2023, screening date."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>		<b>Reduction</b>	<input type="text" value="\$0"/>
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>		
	Ordinary	<input type="text"/>	<input type="text"/>		
	N/A	<input type="text" value="x"/>			
	Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
					<b>Violation Subtotal</b> <input type="text" value="\$16,500"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$40,274"/>		<b>Violation Final Penalty Total</b>	<input type="text" value="\$16,500"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$16,500"/>



Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. City of Galveston 63658 RN101274249 Public Water Supply 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)	\$500,000	8-Dec-2022	1-Feb-2024	1.15	\$1,918	\$38,356	\$40,274
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 create a nine-foot separation distance between the potable waterline located at the intersection of Sealy Street and 23rd Street and the manhole, or encase the potable waterline in a joint of at least 150 psi pressure class pipe at least 18 feet long and two nominal sizes larger than the new conveyance, calculated from the date of the investigation 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	\$500,000	TOTAL	\$40,274
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The TCEQ is committed to accessibility.

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



# Compliance History Report

Compliance History Report for CN600241376, RN101274249, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

**Customer, Respondent, or Owner/Operator:** CN600241376, City of Galveston **Classification:** SATISFACTORY **Rating:** 2.81

**Regulated Entity:** RN101274249, CITY OF GALVESTON **Classification:** UNCLASSIFIED **Rating:** -----

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

**CH Group:** 11 - Waste Management (Excluding Landfills)

**Location:** Between 52nd Street and Avenue A in Galveston, Galveston County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0840003 **AIR NEW SOURCE PERMITS PERMIT** 2280  
**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** GB0017C

**Compliance History Period:** September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

**Date Compliance History Report Prepared:** May 16, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 16, 2018 to May 16, 2023

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Ashley Lemke **Phone:** (512) 239-1118

## 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:**  
N/A

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

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

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
Item 1      July 14, 2021      (1735783)

**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.  
N/A

**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 GALVESTON  
RN101274249

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

## AGREED ORDER DOCKET NO. 2023-0267-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 City of Galveston (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 located between 52nd Street and Avenue A in Galveston, Galveston County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 35,835 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. 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 \$17,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$13,800 of the penalty and \$3,450 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 an investigation at the Facility conducted on December 8, 2022 and December 14, 2022, an investigator documented that the Respondent:

1. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the Respondent failed to keep the elevated storage tank ("EST") at 10 Mile Road free of corrosion.
2. Failed to have a minimum nine-foot separation distance from a potable waterline to a wastewater main manhole or where the nine-foot separation distance cannot be achieved, failure to encase the potable waterline in a joint of at least 150 pounds per square inch ("psi") pressure class pipe at least 18 feet long and two nominal sizes larger than the new conveyance, in violation of 30 TEX. ADMIN. CODE § 290.44(e)(5). Specifically, the potable waterline located at the intersection of Sealy Street and 23rd Street was placed directly through a wastewater line and without a casing. Additionally, wastewater debris had built up around the potable waterline.

## **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: City of Galveston, Docket No. 2023-0267-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, initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, including but not limited to the repairing or replacing the EST at 10 Mile Road, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 45 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.a.
  - c. Within 180 days after the effective date of this Order, create a nine-foot separation distance between the potable waterline located at the intersection of Sealy Street and 23rd Street and the manhole, or encase the potable waterline in a joint of at least 150 psi pressure class pipe at least 18 feet long and two nominal sizes larger than the new conveyance, in accordance with 30 TEX. ADMIN. CODE § 290.44.
  - d. Within 195 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:

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

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

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 Enforcement Division 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.

City of Galveston  
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## SIGNATURE PAGE

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

10/2/2023

For the Executive Director

Date

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

I also understand that failure to comply with the Ordering Provisions, 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 OAG 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 OAG 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.

DocuSigned by:

Daniel J. Buckley

Signature

July 31, 2023

Date

Daniel J. Buckley

Name (Printed or typed)  
Authorized Representative of  
City of Galveston

Deputy City Manager

Title

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

ATTEST:

DocuSigned by:

Janelle Williams

CITY SECRETARY

DS



APPROVED AS TO FORM:

DocuSigned by:

Donna Fairweather for

CITY ATTORNEY'S OFFICE

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.