

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NUMBER: 2005-0075-PWS-E TCEQ ID NO: RN101215275 ENF ID: 23485
RESPONDENT NAME: HORACE FINDLEY DBA BOSQUE BRAZOS VALLEY WATER SYSTEMS, INC.

ORDER TYPE:

<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: Farm-to-Market Road 2114 and Bosque County Road 3635 located in Whitney, Bosque County

TYPE OF OPERATION: Public Water Supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no previous complaints. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Deanna Sigman, Litigation Division, MC 175, (512) 239-0619; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Section I, MC R-12, (713) 767-3672
TCEQ Regional Contact: Mr. Frank Burtleson, Waco Regional Office, MC R-9, (254) 761-3007
Respondent: Mr. Horace Findley dba Bosque Brazos Valley Water System, Inc., P.O. Box 1233, Whitney, Texas 76692
Respondent's Attorney: Not represented by counsel.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: October 11, 2004 and April 1, 2006</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case : May 19, 2003 (NOV); June 2, 2003 (NOV) October 15, 2003 (NOV); June 3, 2004 (NOV); December 29, 2004 (NOE); April 1, 2005 (NOV); June 27, 2005 (NOV); July 27, 2005 (NOV); August 25, 2005 (NOV); October 3, 2005 (NOV); October 31, 2005 (NOV); December 1, 2005 (NOV); December 21, 2005 (NOV); January 25, 2006 (NOV); February 23, 2006 (NOV); March 22, 2006 (NOV); April 28, 2006 (NOV); May 15, 2006 (NOE)</p> <p>Background Facts:</p> <p>An EDPRP was filed on January 18, 2006. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Findley received notice of the EDPRP.</p> <p>An EDFARP was filed on September 15, 2006. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Findley received notice of the EDPRP.</p> <p>An EDSARP was filed on October 23, 2006. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Findley received notice of the EDPRP.</p> <p>The Respondent has not filed an Answer or requested a hearing for any of the petitions.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PWS:</p> <ol style="list-style-type: none"> 1) Failed to operate the public water system under the direct supervision of a water works operator who holds an applicable, valid license issued by the Executive Director [30 TEX. ADMIN. CODE § 290.46(e)(3)(A)]. 2) Failed to ensure that the contracted water purchase rate was at least 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(f)(4)]. 	<p>Total Assessed: \$7,921</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$7,921</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes the Facility was acquired by Smith Bend Water Supply Corporation on August 15, 2006.</p> <p>The Respondent shall:</p> <p>Within 30 days, submit payment for all outstanding fees, including any associated penalties and interest.</p>

DOCKET NO.: 2005-0075-PWS-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3) Failed to maintain Monthly Operation Reports (MOR) and make them accessible for review during inspection [30 TEX. ADMIN. CODE § 290.46(f)].</p>		
<p>4) Failed to perform routine monthly bacteriological sampling of the public water system for the months of March, April, and August 2003, February, May, June, and July through December 2005, and January through March 2006 [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>		
<p>5) Failed to provide public notice of the failure to conduct monthly bacteriological sampling for the months of March, April, and August 2003, February, May, June, and July through December 2005, and January through March [30 TEX. ADMIN. CODE § 290.122(c)(2)(A)].</p>		
<p>6) Failed to pay outstanding Public Health Service fees and associated late fees for TCEQ Account No. 90180009 for Fiscal Years 2005 and 2006 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].</p>		

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision December 10, 2004

DATES	Assigned 03-Jan-2005					
	PCW 07-Sep-2006	Screening 05-Jan-2005	Priority Due 04-Mar-2005	EPA Due		

RESPONDENT/FACILITY INFORMATION	
Respondent	Horace Findley dba Bosque-Brazos Valley Water Systems, Inc.
Reg. Ent. Ref. No.	RN101215275
Additional ID No(s).	Public Water Supply ID No. 0180009
Facility/Site Region	9-Waco <input type="checkbox"/> Major/Minor Source <input type="checkbox"/> Minor Source <input type="checkbox"/>

CASE INFORMATION			
Enf./Case ID No.	23485	No. of Violations	3
Docket No.	2005-0075-PWS-E	Order Type	1660
Case Priority	3	Enf. Coordinator	Catherine Albrecht
Media Program(s)	Public Water Supply	EC's Team	Enforcement Team 1
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$950
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	35% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$333
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Notes: The respondent received one NOV for same or similar violations and 15 NOVs for other violations at this facility.

Culpability	No <input checked="" type="checkbox"/>	0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5</i>	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer			
Extraordinary					
Ordinary					
N/A	x	(mark with a small x)			
Notes	The respondent is not yet in compliance.				

Economic Benefit	0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts	\$502	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,700	

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$1,283
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OTHER FACTORS AS JUSTICE MAY REQUIRE	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$1,283
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$1,283
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DEFERRAL	0% Reduction	<i>Adjustment</i>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended because this is not an expedited order.

PAYABLE PENALTY	\$1,283
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Screening Date	05-Jan-2005	Docket No.	2005-0075-PWS-E	PCW
Respondent	Horace Findley dba Bosque-Brazos Valley Water Systems, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	23485	<i>PCW Revision December 10, 2004</i>		
Reg. Ent. Reference No.	RN101215275			
Additional ID No(s)	Public Water Supply ID No. 0180009			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Catherine Albrecht			
Site Address	Farm-to-Road Market 2014 and Bosque County Road 3635, Bosque County, Texas			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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	15	30%
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 judgements 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</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	<i>Please Enter Yes or No</i>		
	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) 35%

>> Repeat Violator (Subtotal 3)

N/A **Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

N/A **Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

Compliance History Notes The respondent received one NOV for same or similar violations and 15 NOVs for other violations at this facility.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

PCW

Screening Date 05-Jan-2005

Respondent Horace Findley dba Bosque-Brazos Valley Water Systems, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 23485 *PCW Revision December 10, 2004*

Reg. Ent. Reference No. RN101215275

Additional ID No(s). Public Water Supply ID No. 0180009

Media [Statute] Public Water Supply

Enf. Coordinator Catherine Albrecht

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(3)(A)

Secondary Rule Cite(s)

Violation Description
 Failure to operate the public water system under the direct supervision of a water works operator who holds an applicable, valid license issued by the executive director. Specifically, the respondent did not employ at least one operator who holds a Class "D" or higher surface water license.

Base Penalty \$1,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				Percent

Matrix Notes
 Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a results of the violation.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 3

<i>mark only one use a small x</i>	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Three monthly events are recommended from the October 11, 2004 investigation date to the screening date of January 5, 2005.

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

Estimated EB Amount \$385

Violation Final Penalty Total \$1,013

This violation Final Assessed Penalty (adjusted for limits) \$1,013

Economic Benefit Worksheet

Respondent: Horace Findley dba Bosque-Brazos Valley Water Systems, Inc.
 Case ID No: 23485
 Reg. Ent. Reference No: RN101215275
 Additional ID No(s): Public Water Supply ID No. 0180009
 Media (Statute): 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	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$2,600	19-May-2004	01-Jul-2006	2.1	\$18	\$367	\$385
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to provide operational oversight by a certified water works operator based on \$100 per month. Date required is based on the investigation date. Final date is the projected compliance date.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$2,600**

TOTAL \$385

Screening Date: 05-Jan-2005

Docket No.: 2005-0075-PWS-E

PCW

Respondent: Horace Findley dba Bosque-Brazos Valley Water Systems, Inc. Policy Revision 2 (September 2002)

Case ID No. 23485

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN101215275

Additional ID No(s): Public Water Supply ID No. 0180009

Media [Statute]: Public Water Supply

Enf. Coordinator: Catherine Albrecht

Violation Number: 2

Primary Rule Cite(s): 30 Tex. Admin. Code § 290.45(f)(4)

Secondary Rule Cite(s):

Violation Description:

Failure to insure that the contracted water purchase rate was at least 0.6 gallons per minute ("gpm") per connection. Specifically, the contracted purchase rate was only 0.51 gpm indicating a deficiency of 15%, as documented during an investigation conducted on October 11, 2004.

Base Penalty: \$1,000

Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent: 10%
	Potential		X		

Programmatic Matrix

		Falsification	Major	Moderate	Minor	
						Percent:
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a results of the violation.					

Adjustment: -\$900

Base Penalty Subtotal: \$100

Violation Events

Number of Violation Events: 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty: \$100

One quarterly event is recommended based on the investigation date of October 11, 2004, to the screening date of January 5, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$106

Violation Final Penalty Total: \$135

This violation Final Assessed Penalty (adjusted for limits): \$135

Economic Benefit Worksheet

Respondent: Horace Findley dba Bosque-Brazos Valley Water Systems, Inc.
Case ID No.: 23485
Reg. Ent. Reference No.: RN101215275
Additional ID No(s): Public Water Supply ID No. 0180009
Media [Statute]: 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	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	19-May-2004	01-Jul-2006	2.1	\$106	n/a	\$106

Notes for DELAYED costs: Estimated cost to amend the purchase water contract and purchase the required amount of water. Date required is based on the investigation date. Final date is the projected compliance date.

Avoided Costs							
ANNUALIZE [1]: avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: \$1,000
TOTAL: \$106

Screening Date	05-Jan-2005	Docket No.	2005-0075-PWS-E	PCW
Respondent	Horace Findley dba Bosque-Brazos Valley Water Systems, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	23485			<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No.	RN101215275			
Additional ID No(s).	Public Water Supply ID No. 0180009			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Catherine Albrecht			
Violation Number	<input type="text" value="3"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.46(f)"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to maintain Monthly Operation Reports (MOR) and make accessible for review during inspections."/>			
	Base Penalty	<input type="text" value="\$1,000"/>		

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

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

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$11"/>	Violation Final Penalty Total <input type="text" value="\$135"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$135"/>	

Economic Benefit Worksheet

Respondent: Horace Findley dba Bosque-Brazos Valley Water Systems, Inc.
Case ID No: 23485
Reg. Ent. Reference No: RN101215275
Additional ID No(s): Public Water Supply ID No. 0180009
Media [Statute]: 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	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	19-May-2004	01-Jul-2006	2.1	\$11	n/a	\$11

Notes for DELAYED costs: Estimated cost to maintain properly system records. Date required is based on the investigation date. Final date is the projected compliance date.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	19-Jun-2006	Screening	28-Jul-2006	EPA Due	09-Feb-2007
	PCW	09-Aug-2006				

RESPONDENT/FACILITY INFORMATION

Respondent	Horace Findley dba Bosque Brazos Valley Water System, Inc.		
Reg. Ent. Ref. No.	RN101215275		
Facility/Site Region	9-Waco	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	23485	No. of Violations	2
Docket No.	2005-0075-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	77% Enhancement	Subtotals 2, 3, & 7	\$2,888
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Notes	The respondent has 15 NOVs for same or similar violations and one NOV for other violations at this facility during the last five years.
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The respondent does not meet culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes	The respondent does not meet good faith criteria.
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Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$518	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$450	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,638
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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Final Penalty Amount	\$6,638
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,638
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral offered for a findings order.
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PAYABLE PENALTY	\$6,638
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Screening Date 28-Jul-2006 **Docket No.** 2005-0075-PWS-E **PCW**
Respondent Horace Findley dba Bosque Brazos Valley Water System, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 23485 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101215275
Media [Statute] Public Water Supply
Enf. Coordinator Catherine Albrecht

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	15	75%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 judgements 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)</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%
<i>Please Enter Yes or No</i>			
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) **77%**

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

N/A

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

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

N/A

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes

The respondent has 15 NOVs for same or similar violations and one NOV for other violations at this facility during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **77%**

Screening Date 28-Jul-2006

Docket No. 2005-0075-PWS-E

PCW

Respondent Horace Findley dba Bosque Brazos Valley Water System, Inc.

Policy Revision 2 (September 2002)

Case ID No. 23485

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101215275

Media [Statute] Public Water Supply

Enf. Coordinator Catherine Albrecht

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

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: Horace Findley dba Bosque Brazos Valley Water System, Inc.
 Case ID No. 23485
 Reg. Ent. Reference No. RN101215275
 Media [Statute] 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	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$450	31-Mar-2003	31-Mar-2006	3.0	\$68	\$450	\$518
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs Estimated costs of bacteriological sampling and posting public notices for monitoring violations is based on \$30 per month for 15 months that the violations occurred.							

Approx. Cost of Compliance

TOTAL

Screening Date	28-Jul-2006	Docket No.	2005-0075-PWS-E	PCW
Respondent	Horace Findley dba Bosque Brazos Valley Water System, Inc.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	23485			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101215275			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Catherine Albrecht			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.51(a)(3)"/>			
Secondary Rule Cite(s)	<input type="text" value="Tex. Water Code § 5.702"/>			
Violation Description	<input 2005="" 2006."="" 90180009="" account="" and="" associated="" fees="" fiscal="" for="" late="" no.="" phs")="" tceq="" type="text" value="Failure to pay outstanding Public Health Service (" years=""/>			
		Base Penalty	<input type="text" value="\$1,000"/>	

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$0"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$0"/>	

Economic Benefit Worksheet

Respondent: Horace Findley dba Bosque Brazos Valley Water System, Inc.
 Case ID No. 23485
 Reg. Ent. Reference No. RN101215275
 Media [Statute] 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	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator: CN601357767 HORACE FINDLEY. Classification:
Rating: 0.00

Regulated Entity: RN101215275 BOSQUE BRAZOS VALLEY WATER Classification:
SYSTEMS, INC. Site Rating: 0.00

ID Number(s):
WATER LICENSING LICENSE 0180009
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0180009

Location: FM 2014, Bosque County Road 3635, Bosque County, Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: August 1, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 1, 2001 to August 1, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

- | | |
|--|-----|
| 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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The dates of investigations.

- | | |
|---|---------------------|
| 1 | 06/10/2004 (272404) |
| 2 | 10/03/2005 (482176) |
| 3 | 01/25/2006 (482210) |
| 4 | 12/21/2005 (482208) |
| 5 | 07/27/2005 (482141) |
| 6 | 08/25/2005 (482146) |
| 7 | 10/31/2005 (482185) |

8 10/15/2003 (482098)
9 12/01/2005 (482197)
10 03/22/2006 (482218)
11 02/23/2006 (482216)
12 07/19/2004 (278656)
13 04/01/2005 (482110)
14 12/29/2004 (337458)
15 06/16/2006 (482792)
16 06/02/2003 (482087)
17 04/28/2006 (482220)
18 05/19/2003 (481786)
19 06/27/2005 (482136)

E. Written notices of violations (NOV).

Date: 10/03/2005 (482176)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 08/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.

Date: 12/21/2005 (482208)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 11/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.

Date: 04/28/2006 (482220)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 03/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 03/2006.

Date: 06/27/2005 (482136)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 05/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 05/2005.

Date: 10/15/2003 (482098)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 08/2003.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2003.

Date: 07/27/2005 (482141)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 06/2005.

Self Report? NO Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 06/2005.

Date: 08/25/2005 (482146)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 07/2005.

Self Report? NO Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.

Date: 06/02/2003 (482087)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 04/2003.

Self Report? NO Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 04/2003.

Date: 10/31/2005 (482185)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 09/2005.

Self Report? NO Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.

Date: 02/23/2006 (482216)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 01/2006.

Self Report? NO Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2006.

Date: 12/01/2005 (482197)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 10/2005.

Self Report? NO Classification: Moderate

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

Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.

Date: 01/25/2006 (482210)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: Failure to collect any routine monitoring samples in 12/2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2005.

Date: 05/19/2003 (481786)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 03/2003.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 03/2003.

Date: 06/03/2004 (272404)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
Description: Failure by the water system to employ an operator who holds an applicable, valid license.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)
Description: Failure to provide an adequate purchase water capacity.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)[G]
Description: Failure to maintain a Monthly Operation Report (MOR).

Date: 03/22/2006 (482218)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 02/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 02/2006.

Date: 04/01/2005 (482110)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 02/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post a PN for not collecting any routine monitoring samples in 02/2005.

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
HORACE FINDLEY DBA BOSQUE
BRAZOS VALLEY WATER
SYSTEMS, INC.,
RN101215275**

§
§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2005-0075-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Horace Findley dba Bosque Brazos Valley Water Systems, Inc. ("Mr. Findley").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Findley owned and operated a public water supply at Farm-to-Market Road 2114 and Bosque County Road 3635 located in Whitney, Bosque County, Texas (the "Facility").
2. The Facility had 36 service connections and served at least 25 people per day for at least 60 days per year.
3. During an investigation on October 11, 2004, a TCEQ Waco Regional Office investigator documented that Mr. Findley:
 - a. failed to operate the public water system under the direct supervision of a water works operator who holds an applicable, valid license issued by the executive director;
 - b. failed to ensure that the contracted water purchase rate was at least 0.6 gallons per minute ("gpm") per connection; and

- c. failed to maintain Monthly Operation Reports (MOR) and make them accessible for review during inspection.
4. During a record review on April 1, 2006, TCEQ staff documented that Mr. Findley:
 - a. failed to perform routine monthly bacteriological sampling of the public water system for the months of March, April, and August 2003, February, May, June, and July through December 2005, and January through March 2006;
 - b. failed to provide public notice of the failure to conduct monthly bacteriological sampling for the months of March, April, and August 2003, February, May, June, and July through December 2005, and January through March 2006; and
 - c. failed to pay outstanding Public Health Service fees and associated late fees for TCEQ Account No. 90180009 for Fiscal Years 2005 and 2006.
5. Mr. Findley received notices of the violations on or about January 2, 2005 and May 15, 2006.
6. ED recognizes the Facility was acquired by Smith Bend Water Supply Corporation on August 15, 2006.
7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Horace Findley dba Bosque Brazos Valley Water System, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on January 18, 2006.
8. By letter dated January 18, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Findley with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Findley received notice of the EDPRP.
9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Horace Findley dba Bosque Brazos Valley Water System" (the "EDFARP") in the TCEQ Chief Clerk's office on September 15, 2006.

10. By letter dated September 15, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Findley with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Findley received notice of the EDFARP.
11. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Horace Findley dba Bosque Brazos Valley Water System" (the "EDSARP") in the TCEQ Chief Clerk's office on October 23, 2006.
12. By letter dated October 23, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Findley with notice of the EDSARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Findley received notice of the EDSARP.
13. More than 20 days have elapsed since Mr. Findley received notices of the EDPRP, the EDFARP, and the EDSARP, provided by the Executive Director. Mr. Findley failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference to either the EDPRP, the EDFARP, or the EDSARP.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Findley is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5 and TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Findley failed to operate the public water system under the direct supervision of a water works operator who holds an applicable, valid license issued by the executive director, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(3)(A).
3. As evidenced by Finding of Fact No. 3.b., Mr. Findley failed to ensure that the contracted water purchase rate was at least 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(4).

4. As evidenced by Finding of Fact No. 3.c., Mr. Findley failed to maintain Monthly Operation Reports (MOR) and make them accessible for review during inspection, in violation of 30 TEX. ADMIN. CODE § 290.46(f).
5. As evidenced by Finding of Fact No. 4.a., Mr. failed to perform routine monthly bacteriological sampling of the public water system for the months of March, April, and August 2003, February, May, June, and July through December 2005, and January through March 2006, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
6. As evidenced by Finding of Fact No. 4.b., Mr. Findley failed to provide public notice of the failure to conduct monthly bacteriological sampling for the months of March, April, and August 2003, February, May, June, and July through December 2005, and January through March 2006, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A).
7. As evidenced by Finding of Fact No. 4.c., Mr. Findley failed to pay outstanding Public Health Service fees and associated late fees for TCEQ Account No. 90180009 for Fiscal Years 2005 and 2006, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
8. As evidenced by Finding of Fact Nos. 7, 8, 9, 10, 11, 12 the Executive Director has timely served Mr. Findley with proper notice of the EDPRP, the EDFARP, and the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
9. As evidenced by Finding of Fact No. 13, Mr. Findley has failed to file a timely answer to either the EDPRP, the EDFARP, or the EDSARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Findley and assess the penalty recommended by the Executive Director.
10. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Findley for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of seven thousand nine hundred twenty-one dollars (\$7,921.00) 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).

12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Findley is assessed an administrative penalty in the amount of seven thousand nine hundred twenty-one dollars (\$7,921.00) for violations of TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and rules of the TCEQ. The payment of this administrative penalty and Mr. Findley's compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Horace Findley dba Bosque Brazos Valley Water Systems, Inc.; Docket No. 2005-0075-PWS-E" to:

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

2. The Executive Director recommends that, within 30 days after the effective date of the Commission Order, Mr. Findley submit payment for all outstanding fees, including any associated penalties and interest with the notation "Horace Findley dba Bosque Brazos Valley Water Systems, Inc.; TCEQ Docket No. 2005-0075-PWS-E" to:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Findley. Mr. Findley 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 Mr. Findley shall be made in writing to the Executive Director. Extensions are not effective until Mr. Findley receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Findley if the Executive Director determines that Mr. Findley has not complied with one or more of the terms or conditions 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. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Horace Findley dba Bosque Brazos Valley Water Systems, Inc.
DOCKET NO. 2005-0075-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF DEANNA JOY SIGMAN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Deanna Sigman. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Horace Findley dba Bosque Brazos Valley Water System, Inc.” (the “EDPRP”) with the Office of the Chief Clerk on January 18, 2006.

I sent the EDPRP to Mr. Findley at his last known address on January 18, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Horace Findley dba Bosque Brazos Valley Water System, Inc.” (the “EDFARP”) with the Office of the Chief Clerk on September 15, 2006.

I sent the EDFARP to Mr. Findley at his last known address on September 15, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Horace Findley dba Bosque Brazos Valley Water System, Inc.” (the “EDSARP”) with the Office of the Chief Clerk on October 23, 2006.

I sent the EDSARP to Mr. Findley at his last known address on October 23, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating the respondent received notice of the EDSARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

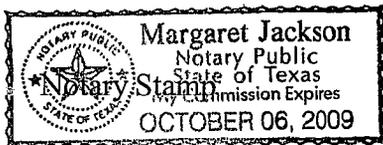
More than 20 days have elapsed since Mr. Findley received notices of the EDPRP, EDFARP, or the EDSARP. Mr. Findley failed to file an answer to any of the petitions, failed to request a hearing, and failed to schedule a settlement conference."

RC

Deanna Sigman
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Deanna Sigman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 7 day of December A.D., 2006.



Margaret Jackson

Notary Signature