EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1993-PWS-E **TCEQ ID:** RN101275485 **CASE NO.:** 31753

RESPONDENT NAME: Hill Country Arts Foundation

ORDER TYPE:		
__1660 AGREED ORDER	_X_FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
_X_PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Hill Country Arts Foundation, 120 Point Theatre Road, Kerr County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: __X__ **Yes** ____ **No**

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

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 April 2, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Division, Enforcement Section I, MC R-13, (210) 403-4077; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Robert L. Meadows, Board President, Hill Country Arts Foundation, P.O. Box 1169, Ingram, Texas 78025
Mr. Scott Russell, Executive Director, Hill Country Arts Foundation, P.O. Box 1169, Ingram, Texas 78025

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** September 1, 2006 **Date of NOVs/NOE Relating to this Case:** December 21, 2005, March 22, April 28, May 26, June 27, July 31, August 25, and September 25, 2006 (NOVs); September 27, 2006 (NOE) **Background Facts:** This was a routine record review. Three violations were documented. **WATER** 1) Failed to perform routine bacteriological monitoring and failed to provide public notice of the failure to perform routine bacteriological monitoring [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY § 341.033(d)]. 2) Failed to collect and submit repeat samples following a total coliform-positive sample and failed to provide public notice of the failure to collect and submit additional samples [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)]. 3) Failed to collectand submit at least five routine samples the month following a total coliform positive result and failed to provide public notice of failure to collect an appropriate number of routine samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)].	**Total Assessed:** $2,840 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $440 (the remaining $2,400 to be paid in 24 payments of $100 each). **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** __ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** The Respondent has eight prior NOVs for the same violation over the previous five year period.	**Ordering Provisions:** The Order will require the Respondent to: a. Within 10 days after the effective date of this Agreed Order: i. Begin collecting and submitting for analysis monthly samples which are representative of the Facility's water system; and ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to customers of the water supply. b. Within 25 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision November 17, 2006*

TCEQ

DATES					
Assigned	6-Nov-2006				
PCW	13-Nov-2006	Screening	14-Nov-2006	EPA Due	31-May-2007

RESPONDENT/FACILITY INFORMATION

Respondent	Hill Country Arts Foundation		
Reg. Ent. Ref. No.	RN101275485		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31753	No. of Violations	3
Docket No.	2006-1993-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 42% Enhancement — *Subtotals 2, 3, & 7* $840

Notes: The penalty enhancement is due to eight prior Notices of Violations (NOVs) for the same or similar violations as those in the current enforcement action and one dissimilair prior NOV.

Culpability — No — 0% Enhancement — *Subtotal 4* $0

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 0% Reduction — *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

Total EB Amounts	$789
Approx. Cost of Compliance	$750

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $2,840

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $2,840

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $2,840

DEFERRAL — 0% Reduction — *Adjustment* $0

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY $2,840

Screening Date	14-Nov-2006	**Docket No.** 2006-1993-PWS-E	**PCW**
Respondent	Hill Country Arts Foundation		*Policy Revision 2 (September 2002)*
Case ID No.	31753		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN101275485		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Yuliya Dunaway		

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 (*number of NOVs meeting criteria*)	8	40%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
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) 42%

>> 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 penalty enhancement is due to eight prior Notices of Violations (NOVs) for the same or similar violations as those in the current enforcement action and one dissimilair prior NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date	14-Nov-2006	**Docket No.** 2006-1993-PWS-E	**PCW**
Respondent	Hill Country Arts Foundation		*Policy Revision 2 (September 2002)*
Case ID No.	31753		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN101275485		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Yuliya Dunaway		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and Tex. Health & Safety § 341.033(d)

Violation Description Failed to perform routine bacteriological monitoring during the months of November 2005 and April through August 2006 and failed to provide public notice of the failure to perform routine bacteriological monitoring during the months of April, May, June and August 2006.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to perform routine bacteriological monitoring of the public water supply and failure to provide public notification could result in the public being exposed to significant amounts of bacteriological contamination which would exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 6 | 180 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,500

Six monthly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $326

Statutory Limit Test

Violation Final Penalty Total $2,130

This violation Final Assessed Penalty (adjusted for limits) $2,130

Economic Benefit Worksheet

Respondent Hill Country Arts Foundation
Case ID No. 31753
Reg. Ent. Reference No. RN101275485
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
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	There are no delayed costs associated with this violation.						
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]	$300	1-Nov-2005	31-Aug-2006	1.7	$26	$300	$326
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the amount to conduct monthly bacteriological sampling, to provide sampling results to the Commission, and/or provide public notification, calculated for the months when violation occurred.						

Approx. Cost of Compliance: $300

TOTAL: $326

Screening Date	14-Nov-2006	**Docket No.** 2006-1993-PWS-E	**PCW**
Respondent	Hill Country Arts Foundation		*Policy Revision 2 (September 2002)*
Case ID No.	31753		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN101275485		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Yuliya Dunaway		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)

Violation Description Failed to collect and submit four repeat samples following a total coliform-positive sample found in February 2006 and failed to provide public notice of the failure to collect and submit an appropriate number of additional samples.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Customers of the public water supply could be exposed to pollutants which would exceed levels that are protective of human health as a result of the violations.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 — 30 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $250

One monthly event is recommended.

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

Estimated EB Amount $200

Violation Final Penalty Total $355

This violation Final Assessed Penalty (adjusted for limits) $355

Economic Benefit Worksheet

Respondent: Hill Country Arts Foundation
Case ID No.: 31753
Reg. Ent. Reference No.: RN101275485
Media: Public Water Supply
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	There are no delayed costs associated with this violation.						
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]	$200	1-Feb-2006	28-Feb-2006	0.0	$0	$200	$200
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the amount to conduct repeat bacteriological sampling following a coliform found result, to provide sampling results to the Commission, and provide public notification, calculated for the month when violation occurred.						

Approx. Cost of Compliance: $200

TOTAL: $200

Screening Date	14-Nov-2006	Docket No. 2006-1993-PWS-E	PCW
Respondent	Hill Country Arts Foundation		Policy Revision 2 (September 2002)
Case ID No.	31753		PCW Revision November 17, 2006
Reg. Ent. Reference No.	RN101275485		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Yuliya Dunaway		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)

Violation Description Failed to collect and submit at least five routine samples the month following a total coliform positive result and failed to provide public notice of failure to collect an appropriate number of routine samples in March 2006.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Customers of the public water supply could be exposed to pollutants which would exceed levels that are protective of human health as a result of the violations.

Adjustment $750

$250

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $250

One monthly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $263

Statutory Limit Test

Violation Final Penalty Total $355

This violation Final Assessed Penalty (adjusted for limits) $355

Economic Benefit Worksheet

Respondent Hill Country Arts Foundation
Case ID No. 31753
Reg. Ent. Reference No. RN101275485
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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	There are no delayed costs associated with this violation.						
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]	$250	1-Mar-2006	31-Mar-2006	1.0	$13	$250	$263
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the amount to collect at least five routine bacteriological samples, to provide sampling results to the Commission, and provide public notification, calculated for the month in which violation occurred.						

Approx. Cost of Compliance: $250

TOTAL: $263

Compliance History

Customer/Respondent/Owner-Operator:	CN600703714	Hill Country Arts Foundation	Classification:	Rating:
Regulated Entity:	RN101275485	HILL COUNTRY ARTS FOUNDATION	Classification:	Site Rating:

ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1330105
Location:	120 POINT THEATRE ROAD, KERR COUNTY		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	November 07, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 07, 2001 to November 07, 2006		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Yuliya Dunaway Phone: (210) 403-4077

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 approval dates of investigations. (CCEDS Inv. Track. No.)

1 12/21/2005 (497619)
2 05/26/2006 (514465)
3 10/31/2006 (516827)
4 07/31/2006 (514850)
5 06/20/2003 (112762)
6 08/25/2006 (514908)
7 04/28/2006 (514407)
8 06/27/2006 (514494)
9 03/22/2006 (514279)
10 09/25/2006 (515315)

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

Date: 06/27/2006 (514494)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: Failure to collect any routine monitoring sample(s) for 05/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 05/2006.

Date: 04/28/2006 (514407)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to post pn for not collecting all of the 5 distribution samples in 03/2006 folllowing a coliform found month.
Self Report? NO Classification: Moderate
Citation:

30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect all of the 5 distribution samples in 03/2006 following a coliform found month.

Date: 12/21/2005 (497619)

Self Report? NO Classification: Moderate

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

Description: Failure to collect any routine monitoring samples in 11/2005.

Date: 09/25/2006 (515315)

Self Report? NO Classification: Moderate

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

Description: Failure to collect any routine monitoring sample(s) for 08/2006.

Self Report? NO Classification: Moderate

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

Description: Failure to post PN for not collecting any routine monitoring sample(s) in 08/2006.

Date: 08/25/2006 (514908)

Self Report? NO Classification: Moderate

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

Description: Failure to collect any routine monitoring sample(s) for 07/2006.

Self Report? NO Classification: Moderate

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

Description: Failure to post PN for not collecting any routine monitoring sample(s) in 07/2006

Date: 03/22/2006 (514279)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: Failure to collect any repeat samples in 02/2006 following a coliform found result.

Self Report? NO Classification: Moderate

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

Description: Failure to post pn for not collecting any repeat samples in 02/2006 following a coliform found result.

Date: 06/18/2003 (112762)

Self Report? NO Classification: Minor

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

Description: Failure to install electrical in conduit

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)

Description: Failure to provide pressure release valve for pressure tank

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)

Description: Failure to maintain ground storage tank in watertight condition.

Date: 07/31/2006 (514850)

Self Report? NO Classification: Moderate

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

Description: Failure to collect any routine monitoring sample(s) for 06/2006.

Self Report? NO Classification: Moderate

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

Description: Failure to post PN for not collecting any routine monitoring sample(s) in 06/2006.

Date: 05/26/2006 (514465)

Self Report? NO Classification: Moderate

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

Description: Failure to collect any routine monitoring sample(s) for 04/2006.

Self Report? NO Classification: Moderate

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

Description: Failure to post PN for not collecting any routine monitoring sample(s) in 04/2006.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
HILL COUNTRY ARTS FOUNDATION	§	
RN101275485	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1993-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Hill Country Arts Foundation under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Hill Country Arts Foundation, presented this agreement to the Commission.

Hill Country Arts Foundation understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Hill Country Arts Foundation agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Hill Country Arts Foundation.

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

I. FINDINGS OF FACT

1. Hill Country Arts Foundation owns and operates a public water supply at 120 Point Theatre Road in Kerr County, Texas (the "Facility") that has approximately 7 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on September 1, 2006, TCEQ staff documented that Hill Country Arts Foundation did not perform routine bacteriological sampling during the months of November 2005 and April through August 2006 and did not provide public notification of the failure to conduct monthly bacteriological sampling during the months of April, May, June and August 2006.

3. During a record review on September 1, 2006, TCEQ staff documented that Hill Country Arts Foundation did not collect and submit four repeat samples following a total coliform-positive sample found in February 2006 and did not provide public notification of the failure to collect and submit the appropriate number of additional samples.

4. During a record review on September 1, 2006, TCEQ staff documented that Hill Country Arts Foundation did not collect five routine distribution samples following a coliform-positive month in March 2006, and did not provide public notification of the failure to collect an appropriate number of routine samples.

5. Hill Country Arts Foundation received notices of the violations dated December 21, 2005, March 22, 2006, April 28, 2006, May 26, 2006, June 27, 2006, July 31, 2006, August 25, 2006, September 25, 2006, and September 27, 2006.

II. CONCLUSIONS OF LAW

1. Hill Country Arts Foundation is subject to the jurisdiction of the TCEQ pursuant to TEX. Health & Safety Code ch. 341 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 2, Hill Country Arts Foundation failed to perform routine bacteriological monitoring and failed to provide public notice of the failure to perform routine bacteriological monitoring, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY § 341.033(d).

3. As evidenced by Findings of Fact No. 3, Hill Country Arts Foundation failed to collect and submit repeat samples following a total coliform-positive sample and failed to provide public notice of the failure to collect and submit additional samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B).

4. As evidenced by Findings of Fact No. 4, Hill Country Arts Foundation failed to collect and submit at least five routine samples the month following a total coliform positive result and failed to provide public notice of failure to collect an appropriate number of routine samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B).

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Hill Country Arts Foundation 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.

6. An administrative penalty in the amount of Two Thousand Eight Hundred Forty Dollars ($2,840) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in Tex. Health & Safety Code § 341.049(b). Hill Country Arts Foundation has paid Four Hundred Forty Dollars ($440) of the administrative penalty. The remaining amount of Two Thousand Four Hundred Dollars ($2,400) of the administrative penalty shall be payable in 24 monthly payments of One Hundred Dollars ($100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Hill Country Arts Foundation fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Hill Country Arts Foundation to meet the payment schedule of this Agreed Order constitutes the failure by Hill Country Arts Foundation to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. Hill Country Arts Foundation is assessed an administrative penalty in the amount of Two Thousand Eight Hundred Forty Dollars ($2,840) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Hill Country Arts Foundation's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Hill Country Arts Foundation, Docket No. 2006-1993-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. Hill Country Arts Foundation shall undertake the following technical requirements:

a. Within 10 days after the effective date of this Agreed Order:

i. Begin collecting and submitting for analysis monthly samples which are representative of the Facility's water system, as required by 30 TEX. ADMIN. CODE § 290.109; and

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to customers of the water supply, as required by 30 TEX. ADMIN. CODE § 290.122.

b. Within 25 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Hill Country Arts Foundation. Hill Country Arts Foundation is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Hill Country Arts Foundation shall be made in writing to the Executive Director. Extensions are not effective until Hill Country Arts Foundation receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. 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 Hill Country Arts Foundation if the Executive Director determines that Hill Country Arts Foundation has not complied with one or more of the terms or conditions in this Agreed Order.

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

7. This Agreed Order, issued by the Commission, shall not be admissible against Hill Country Arts Foundation in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.

8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 5/11/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Hill Country Arts Foundation. I am authorized to agree to the attached Agreed Order on behalf of Hill Country Arts Foundation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Hill Country Arts Foundation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Robert L. Meadows 2/8/07
Signature Date

ROBERT L. MEADOWS BOARD President
Name (Printed or typed) Title
Authorized Representative of
Hill Country Arts Foundation

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.