

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2006-0944-PWS-E TCEQ ID: RN101221240 CASE NO.: 30107
RESPONDENT NAME: YETTA HUSTEAD DBA HIGH FIVE

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 7805 Farm to Market Road 2918, Brazoria, Brazoria County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 21, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Merilee Hupp, Water Enforcement Section, MC 169, (512) 239-4490 TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581 Respondent: Ms. Yetta Hustead, Owner, High Five, 7805 Farm to Market Road 2918, Brazoria, Texas 77422 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: May 1, 2006 June 30, 2006</p> <p>Date of NOE Relating to this Case: May 22, 2006</p> <p>Background Facts:</p> <p>EDPRP was filed on February 14, 2007. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on March 2, 2007, as evidenced by the signature on the card. The Respondent failed to respond to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent has past due administrative penalties relating to a prior Agreed Order. TCEQ Docket No. 2000-0385-PWS-E.</p> <p>PWS:</p> <p>1. Failed to conduct routine bacteriological monitoring of the public water supply during the months of September and November of 2004, and June of 2005, and failed to provide public notification of the failure to conduct monthly bacteriological sampling for the months of September and November of 2004, and June of 2005 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B); and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Total Assessed: \$1,755</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$1,755</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalties but will be required to do so under the terms of this 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 Measures:</p> <p>The Respondent began performing monthly bacteriological sampling, utilizing samples which are representative of the Facility's water system, on February 1, 2006.</p> <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, submit payment for all outstanding administrative penalty payments. 2. Within 45 days, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision 1.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>2. Failed to collect four repeat samples following each total coliform-positive sample found on a routine sample during the month of August 2005, and failed to provide public notification of the failure to collect and submit the appropriate number of repeat samples for the month of August 2005 [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)].</p> <p>3. Failed to collect at least five distribution samples of the month following a total coliform-positive result during the month of September 2005, and failed to provide public notification of the failure to collect and submit the appropriate number of distribution samples for the month of September 2005 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)].</p> <p>4. Failed to pay an outstanding administrative penalty as required by the Commission Order. Specifically, failed to pay outstanding penalty payments of an Administrative Order, Docket No. 2000-0385-PWS-E, effective on December 2, 2000.</p>		



DATES	Assigned	20-Jun-2006	Screening	05-Jul-2006	EPA Due	01-Sep-2006
	PCW	21-Aug-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Yetta Hustead dba High Five
Reg. Ent. Ref. No.	RN101221240
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	30107	No. of Violations	4
Docket No.	2006-0944-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Anita Keese
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with a small x)

Notes

Economic Benefit Subtotal 6

Total EB Amounts	<input type="text" value="\$900"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$2,630"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 05-Jul-2006

Docket No. 2006-0944-PWS-E

PCW

Respondent Yetta Husted dba High Five

Policy Revision 2 (September 2002)

Case ID No. 30107

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101221240

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

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>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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) 30%

>> 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 received six Notices of Violation (NOVs) for the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 05-Jul-2006

Docket No. 2006-0944-PWS-E

PCW

Respondent Yetta Husted dba High Five

Policy Revision 2 (September 2002)

Case ID No. 30107

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101221240

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 1

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

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.033(d)

Violation Description Failure to conduct routine bacteriological monitoring of the public water supply during the months of September and November 2004, and June 2005 and failure to provide public notification of the failure to conduct monthly bacteriological sampling for the months of September and November 2004, and June 2005.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes As a result of this violation, customers of the water supply could be exposed to contaminants which would exceed levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 3

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

Violation Base Penalty \$750

Three monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$236

Violation Final Penalty Total \$975

This violation Final Assessed Penalty (adjusted for limits) \$975

Economic Benefit Worksheet

Respondent Yetta Husted dba High Five
 Case ID No. 30107
 Reg. Ent. Reference No. RN101221240
 Media [Statute] Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)

Item	Cost	Date	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$150	01-Jan-2004	30-Jun-2005	1.5	\$11	\$224	\$236
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

Estimated cost to collect and submit water samples for bacteriological analysis and provide public notice of sampling deficiencies calculated for the months in which no monitoring occurred.

Approx. Cost of Compliance \$150

TOTAL \$236

Screening Date 05-Jul-2006

Docket No. 2006-0944-PWS-E

PCW

Respondent Yetta Husted dba High Five

Policy Revision 2 (September 2002)

Case ID No. 30107

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101221240

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 2

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

Secondary Rule Cite(s)

Violation Description Failure to collect four repeat samples following each total coliform-positive sample found on a routine sample during the month of August 2005 and failure to provide public notification of the failure to collect and submit the appropriate number of repeat samples for the month of August 2005.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor		
						Percent	
Matrix Notes	As a result of this violation, customers of the water supply could be exposed to contaminants which would exceed levels that are protective of human health.						

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one use a small 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 \$17

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent Yetta Husted dba High Five
 Case ID No. 30107
 Reg. Ent. Reference No. RN101221240
 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

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	\$200	01-Aug-2005	31-Aug-2005	0.1	\$1	\$16	\$17
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
 Estimated cost to collect and submit water samples for bacteriological analysis and provide public notice of sampling deficiencies calculated for the month in which repeat samples were not collected.

Approx. Cost of Compliance \$200

TOTAL \$17

Screening Date 05-Jul-2006

Docket No. 2006-0944-PWS-E

PCW

Respondent Yetta Husted dba High Five

Policy Revision 2 (September 2002)

Case ID No. 30107

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101221240

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 3

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

Secondary Rule Cite(s)

Violation Description Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of September 2005 and failure to provide public notification of the failure to collect and submit the appropriate number of distribution samples for the month of September 2005.

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 As a result of this violation, customers of the water supply could be exposed to contaminants which would exceed levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 1

mark only one use a small 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 \$21

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent Yetta Husted dba High Five
 Case ID No. 30107
 Reg. Ent. Reference No. RN101221240
 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
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

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	\$250	01-Sep-2005	30-Sep-2005	0.1	\$1	\$20	\$21
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

Estimated cost to collect and submit water samples for bacteriological analysis and provide public notice of sampling deficiencies calculated for the month in which the appropriate sampling was not performed.

Approx. Cost of Compliance \$250

TOTAL \$21

Screening Date 05-Jul-2006

Docket No. 2006-0944-PWS-E

PCW

Respondent Yetta Husted dba High Five

Policy Revision 2 (September 2002)

Case ID No. 30107

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101221240

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Violation Number 4

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2000-0385-PWS-E, IV. ORDERING PROVISIONS, Paragraph 1.

Secondary Rule Cite(s)

Violation Description Failure to pay an outstanding administrative penalty as required by a Commission Order. Specifically, respondent failed to pay outstanding penalty payments totaling Two Thousand Thirty Dollars (\$2,030) for an Administrative Order, Docket Number 2000-0385-PWS-E, effective on December 2, 2000.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes 80% of the penalty required by the ordering provision was not paid.

Adjustment -\$900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$626

Violation Final Penalty Total \$130

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

Economic Benefit Worksheet

Respondent Yetta Husted dba High Five
Case ID No. 30107
Reg. Ent. Reference No. RN101221240
Media [Statute] Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$2,030	02-Dec-2000	31-Jan-2007	6.2	\$626	n/a	\$626

Notes for DELAYED costs Amount of administrative penalty owed from the effective date of the agreed order to the estimated date of compliance.

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 \$2,030 TOTAL \$626

Compliance History

Customer/Respondent/Owner-Operator:	CN600662647 HUSTEAD, YETTA	Classification:	Rating:
Regulated Entity:	RN101221240 HIGH FIVE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0200492
Location:	7805 FM 2918 RD, BRAZORIA COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	August 02, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 02, 2001 to August 02, 2006		

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

Name: Anita Keese Phone: (956) 430-6034

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.)

- | | | | |
|-----|---|------------|----------|
| N/A | 1 | 12/01/2003 | (252069) |
| | 2 | 06/15/2006 | (481944) |
| | 3 | 07/27/2005 | (481476) |
| | 4 | 11/01/2004 | (481138) |
| | 5 | 10/03/2005 | (481517) |
| | 6 | 10/03/2005 | (481503) |
| | 7 | 12/28/2004 | (481454) |

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

- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 10/03/2005 | (481503) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii) | | |
| Description: | Failure to collect four repeat samples following each total coliform-positive sample found on a routine sample during the month of August 2005. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B) | | |
| Description: | Failure to provide public notice for failure to collect and submit the appropriate number of additional samples during the month of August 2005 | | |
| Date: | 12/01/2003 | (252069) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.110(b)(4) | | |
| Description: | Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations. Field tests conducted during this survey revealed that these levels are not being maintained throughout the system. | | |

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)(D)
Description: Failure to possess a chlorine test kit which uses the DPD method to determine the free chlorine residual at various locations to ensure the proper chlorine residual is being maintained throughout the distribution system. (A record of these tests and the sample location must be kept in your files for future review.)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(5)(A)
Description: Failure to perform at least once every seven days, chlorine residual tests on water collected from various locations within the distribution system. (A record of these tests and the sample location should be kept in your files for a minimum of 3 years.)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)
Description: Failure to make available sanitary control easements for well at the time of inspection. A sanitary easement covering all property within 150 feet of the well location must be secured from adjacent landowners and recorded at the county courthouse to ensure that hazards will not develop in the well area.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to provide the each well with a screened casing vent, which must face downward and be elevated so as to minimize the drawing of contaminants into the well. The screening must be 16-mesh or finer corrosion-resistant screen.

Date: 11/01/2004 (481138)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to conduct routine bacteriological of the public water supply for the month of September 2004.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice for monitoring violations during the month of September 2004.

Date: 10/03/2005 (481517)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of September 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice for failure to collect and submit the appropriate number of distribution samples during the month of September 2005.

Date: 07/27/2005 (481476)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to conduct routine bacteriological of the public water supply for the month of June 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice for monitoring violations during the month of June 2005.

Date: 12/28/2004 (481454)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to conduct routine bacteriological of the public water supply for the month of November 2004.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice for monitoring violations during the month of November 2004.

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
YETTA HUSTEAD DBA HIGH
FIVE,
RN101221240**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2006-0944-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. 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 Yetta Hustead dba High Five ("Ms. Hustead").

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

FINDINGS OF FACT

1. Ms. Hustead owns and operates a public water supply located at 7805 Farm to Market Road 2918, Brazoria, Brazoria County, Texas (the "Facility").
2. The Facility has one service connection and serves at least 25 people per day for at least 60 days per year.
3. During a record review conducted on May 1, 2006, a TCEQ Central Office staff member documented that Ms. Hustead:
 - a. failed to conduct routine bacteriological monitoring of the public water supply during the months of September and November of 2004 and June of 2005, and failed to provide public notification of the failure to conduct monthly bacteriological sampling for the months of September and November of 2004, and June of 2005;
 - b. failed to collect four repeat samples following each total coliform-positive sample found on a routine sample during the month of August 2005, and failed to provide public notification of the failure to collect and submit the appropriate number of repeat samples for the month of August 2005; and

- c. failed to collect at least five distribution samples the month following a total coliform-positive result during the month of September 2005, and failed to provide public notification of the failure to collect and submit the appropriate number of distribution samples for the month of September 2005.
4. During a record review conducted on June 30, 2006, a TCEQ Central Office staff member documented that Ms. Husted failed to pay an outstanding administrative penalty as required by a Commission Order. Specifically, Ms. Husted failed to pay outstanding penalty payments of an Administrative Order, Docket Number 2000-0385-PWS-E, effective on December 2, 2000.
5. Ms. Husted received notice of the violations on or about May 27, 2006.
6. The Executive Director recognizes that Ms. Husted began performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system on February 1, 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 Yetta Husted dba High Five" (the "EDPRP") in the TCEQ Chief Clerk's office on February 14, 2007.
8. By letter dated February 14, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Husted with notice of the EDPRP. According to the return receipt "green card," Ms. Husted received notice of the EDPRP on March 2, 2007, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Ms. Husted received notice of the EDPRP, provided by the Executive Director. Ms. Husted failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Husted 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 Finding of Fact No. 3.a., Ms. Husted failed to conduct routine bacteriological monitoring of the public water supply during the months of September and November of 2004 and June of 2005, and failed to provide public notification of the failure to conduct monthly bacteriological sampling for the months of September and November of 2004, and June of 2005, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B); and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3.b., Ms. Husted failed to collect four repeat samples following each total coliform-positive sample found on a routine sample during the month of August 2005, and failed to provide public notification of the failure to collect and submit the appropriate number of repeat samples for the month of August 2005, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B).
4. As evidenced by Finding of Fact No. 3.c., Ms. Husted failed to collect at least five distribution samples the month following a total coliform-positive result during the month of September 2005, and failed to provide public notification of the failure to collect and submit the appropriate number of distribution samples for the month of September 2005, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B).
5. As evidenced by Finding of Fact No. 4, Ms. Husted failed to pay an outstanding administrative penalty as required by a Commission Order. Specifically, Ms. Husted failed to pay outstanding penalty payments of an Administrative Order, Docket Number 2000-0385-PWS-E, effective on December 2, 2000.
6. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Ms. Husted with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 9, Ms. Husted has failed to file a timely answer to the EDPRP, 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 Ms. Husted and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Ms. Husted 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.

9. An administrative penalty in the amount of one thousand seven hundred fifty-five dollars (\$1,755.00) 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).
10. 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. Ms. Husted is assessed an administrative penalty in the amount of one thousand seven hundred fifty-five dollars (\$1,755.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and rules of the TCEQ. The payment of this administrative penalty and Ms. Husted'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: Yetta Husted dba High Five; Docket No. 2006-0944-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. Ms. Husted shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, submit payment for all outstanding administrative penalty payments, including any associated penalties and interest with the notation—"Yetta Husted dba High Five, Docket No. 2000-0385-PWS-E" to:

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

Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including receipts and/or other records to demonstrate compliance with Ordering Provisions 2.a.

The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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

and

Stephen Smith, Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
2524 Polk Avenue, Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Ms. Husted. Ms. Husted 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 Ms. Husted shall be made in writing to the Executive Director. Extensions are not effective until Ms. Husted 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 Ms. Husted if the Executive Director determines that Ms. Husted 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.

Yetta Hustead dba High Five
DOCKET NO. 2006-0944-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Benjamin O. Thompson. 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 Yetta Husted dba High Five” (the “EDPRP”) with the Office of the Chief Clerk on February 14, 2007.

I sent the EDPRP to Ms. Husted at her last known address on February 14, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Ms. Husted received notice of the EDPRP on March 2, 2007, as evidenced by the signature on the card.

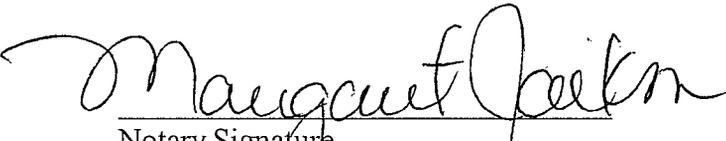
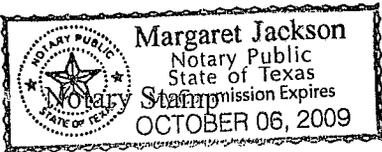
More than 20 days have elapsed since Ms. Husted received notice of the EDPRP. Ms. Husted failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 25 day of February, 2008.


Notary Signature