

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-1826-PWS-E TCEQ ID: RN103108452 CASE NO.: 34937**

**RESPONDENT NAME: HANK CANTU DBA HILLS OF TEXAS BULK WATER**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<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

**SITE WHERE VIOLATION(S) OCCURRED:** 414 Gregg Dr., Spicewood, Burnet County

**TYPE OF OPERATION:** Public water system

**SMALL BUSINESS:**  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 August 25, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Suzanne Walrath, Water Enforcement Section, MC 219, (512) 239-2134

**TCEQ Regional Contact:** Ms. Carolyn Runyon, Austin Regional Office, MC R-11, (512) 239-2929

**Respondent:** Mr. Hank Cantu, Owner, Hills of Texas Bulk Water, P.O. Box 564, Spicewood, TX 78669

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

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>                      N/A</p> <p><b>Date of Investigation Relating to this Case:</b>                      September 1, 2007</p> <p><b>Date of NOE Relating to this Case:</b>                      October 9, 2007</p> <p><b>Background Facts:</b>                      The EDPRP was filed on May 8, 2008, and mailed to the Respondent 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 that the Respondent received notice of the EDPRP. The Respondent has failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>                      The Respondent has not completed any of the Ordering Provisions since the default.</p> <p><b>PWS:</b>                      Failed to collect any routine water samples for bacteriological analysis for the months of December 2006, January, February, March, April, June, July, and August, 2007, and failed to post the public notices of failure to conduct these samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2) and 290.122(c)(2) and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p>	<p><b>Total Assessed:</b> \$3,640</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$3,640</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><b>Site Compliance History Classification</b>                      N/A</p> <p><b>Person Compliance History Classification</b>                      N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 1, 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall:</p> <p>1. Immediately:</p> <p>a. Begin collecting and submitting monthly water samples, at a frequency based on population served by the system for bacteriological analysis; and</p> <p>b. Begin posting public notice indicating when sampling is not conducted.</p> <p>2. Within 45 days, submit documentation certifying compliance with Ordering Provision No. 1.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	5-Nov-2007	<b>Screening</b>	8-Nov-2007	<b>EPA Due</b>	
	<b>PCW</b>	9-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Hank Cantu dba Hills of Texas Bulk Water
<b>Reg. Ent. Ref. No.</b>	RN103108452
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	34937	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2007-1826-PWS-E	<b>Order Type</b>	Findings	
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Libby Hogue	
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$2,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	42% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$840
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**Notes** A 42% enhancement is recommended for having eight NOV's for same or similar violations, and one NOV for other violations.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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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.

<b>Total EB Amounts</b>	\$559	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$800	<i>*Capped at the Total EB \$ Amount</i>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,840
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	28%	<b>Adjustment</b>	\$800
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommend an upward adjustment of the penalty due to the avoided costs of \$800.

<b>Final Penalty Amount</b>	\$3,640
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,640
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	\$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 for Findings Orders.

<b>PAYABLE PENALTY</b>	\$3,640
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**Screening Date** 8-Nov-2007

**Docket No.** 2007-1826-PWS-E

**PCW**

**Respondent** Hank Cantu dba Hills of Texas Bulk Water

Policy Revision 2 (September 2002)

**Case ID No.** 34937

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN103108452

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Libby Hogue

**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>	8	40%
	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 judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<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)** 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**

A 42% enhancement is recommended for having eight NOVs for same or similar violations, and one NOV for other violations.

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

<b>Screening Date</b> 8-Nov-2007	<b>Docket No.</b> 2007-1826-PWS-E	<b>PCW</b>		
<b>Respondent</b> Hank Cantu dba Hills of Texas Bulk Water	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 34937	<i>PCW Revision November 6, 2007</i>			
<b>Reg. Ent. Reference No.</b> RN103108452				
<b>Media [Statute]</b> Public Water Supply				
<b>Enf. Coordinator</b> Libby Hogue				
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.109(c)(2) and 290.122(c)(2), and Tex. Health & Safety Code § 341.033(d)			
<b>Violation Description</b>	Failed to collect any routine water samples for bacteriological analysis for the months of December 2006, January, February, March, April, June, July and August of 2007 and failed to post the public notices of failure to conduct these samplings, as documented during a record review investigation conducted on September 1, 2007.			
<b>Base Penalty</b>		\$1,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	25%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	Failure to sample may allow undetected contaminants that exceed levels that are protective of human health or environmental receptors being distributed to the public for human consumption.			
<b>Adjustment</b>		\$750		
			\$250	
<b>Violation Events</b>				
<b>Number of Violation Events</b>		8	212	<b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
		<b>Violation Base Penalty</b>		\$2,000
Eight monthly events are recommended.				
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$559	<b>Violation Final Penalty Total</b>	\$3,640
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$3,640	

## Economic Benefit Worksheet

**Respondent:** Hank Cantu dba Hills of Texas Bulk Water

**Case ID No.:** 34937

**Reg. Ent. Reference No.:** RN103108452

**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
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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

**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	\$800	31-Dec-2006	31-Aug-2007	0.7	\$27	\$533	\$559
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, (\$100 for each month that samples were not taken), to conduct routine bacteriological sampling and to post public notice of the violation. Date required is the first month sampling was not performed, the final date is the date the last sample not taken.

Approx. Cost of Compliance \$800

TOTAL \$559

# Compliance History

Customer/Respondent/Owner-Operator: CN601643067 CANTU, HANK Classification: Rating:  
Regulated Entity: RN103108452 HILLS OF TEXAS BULK WATER Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0270128  
Location: 414 GREGG DRIVE, SPICEWOOD, TEXAS 78669  
TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: November 08, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: November 05, 2002 to November 05, 2007  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Libby Hogue Phone: 512-239-1165

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership 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	01/26/2007	(598113)
2	02/21/2007	(599078)
3	03/29/2007	(599092)
4	04/25/2007	(599105)
5	05/25/2007	(599114)
6	07/30/2007	(599141)
7	09/10/2007	(599148)
8	10/03/2007	(594377)
9	10/09/2007	(599480)
10	11/01/2007	(599775)

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

Date: 01/26/2007 (598113)

Self Report? NO

Classification: Moderate

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

Description: 12/2006 - Failure to collect any routine monitoring sample(s) for 12/2006.

Self Report? NO

Classification: Moderate

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

Description: 12/2006 - Failure to post PN for not collecting any routine monitoring sample(s) in 12/2006.

Date: 02/21/2007 (599078)

Self Report? NO

Classification: Moderate

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

Description: 01/2007 - Failure to collect any routine monitoring sample(s) for 01/2007.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 01/2007 - Failure to post PN for not collecting any routine monitoring sample(s) in 01/2007.

Date 03/29/2007 (599092)  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 02/2007 - Failure to post PN for not collecting any routine monitoring sample(s) in 02/2007.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: 02/2007 - Failure to collect any routine monitoring sample(s) for 02/2007

Date 04/25/2007 (599105)  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: 03/2007 - Failure to collect any routine monitoring sample(s) for 03/2007.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 03/2007 - Failure to post PN for not collecting any routine monitoring sample(s) in 03/2007.

Date 05/25/2007 (599114)  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: 04/2007 - Failure to collect any routine monitoring sample(s) for 04/2007.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 04/2007 - Failure to post PN for not collecting any routine monitoring sample(s) in 04/2007.

Date 07/30/2007 (599141)  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 06/2007 - Failure to post PN for not collecting any routine monitoring sample(s) in 06/2007.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: 06/2007 - Failure to collect any routine monitoring sample(s) for 06/2007.

Date 09/10/2007 (599148)  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: 07/2007 - Failure to collect any routine monitoring sample(s) for 07/2007.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 07/2007 - Failure to post PN for not collecting any routine monitoring sample(s) in 07/2007.



Date 10/05/2007 (594377)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(i)(2)(L)

Description: Failure to provide a monthly record of microbiological sampling results.

Date 10/09/2007 (599480)

Self Report? NO

Classification: Moderate

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

Description: 08/2007 - Failure to post a PN for not collecting any routine monitoring sample(s) in 08/2007.

Self Report? NO

Classification: Moderate

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

Description: 08/2007 - Failure to collect any of the routine monthly samples 08/2007.

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  
AGAINST HANK CANTU DBA  
HILLS OF TEXAS BULK WATER;  
RN103108452

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2007-1826-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 Hank Cantu dba Hills of Texas Bulk Water ("Mr. Cantu").

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

**FINDINGS OF FACT**

1. Mr. Cantu owns and operates public water system located at 414 Gregg Dr, Spicewood, Burnet County, Texas (the "Facility").
2. The Facility has one service connection; serves at least 25 people per day for at least 60 days per year; and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN CODE § 290.38(63).
3. During a record review conducted on September 1, 2007, a TCEQ investigator documented that Mr. Cantu failed to collect any routine water samples for bacteriological analysis for the months of December 2006, January, February, March, April, June, July, and August of 2007 and failed to post the public notices of failure to conduct these samples.
4. Mr. Cantu received notice of the violation on or about October 14, 2007.
5. 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 Hank Cantu dba Hills of Texas Bulk Water” (the “EDPRP”) in the TCEQ Chief Clerk’s office on May 8, 2008.

6. By letter dated May 8, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Cantu 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. Cantu received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Cantu received notice of the EDPRP, provided by the Executive Director. Mr. Cantu 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, Mr. Cantu 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, Mr. Cantu failed to collect any routine water samples for bacteriological analysis for the months of December 2006, January, February, March, April, June, July, and August of 2007 and failed to post the public notices of failure to conduct these samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2) and 290.122(c)(2) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Cantu with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 6, Mr. Cantu 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 Mr. Cantu and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Cantu 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 three thousand six hundred forty dollars (\$3,640.00) 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).
7. 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. Cantu is assessed an administrative penalty in the amount of three thousand six hundred forty dollars (\$3,640.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ. The payment of this administrative penalty and Mr. Cantu'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: Hank Cantu dba Hills of Texas Bulk Water; Docket No. 2007-1826-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. Mr. Cantu shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Mr. Cantu shall begin collecting and submitting monthly water samples, at a frequency based on population served by the system, for bacteriological analysis, as required by 30 TEX. ADMIN. CODE § 290.109;

- b. Immediately upon the effective date of this Order, Mr. Cantu shall begin posting public notice indicating when sampling was not conducted, as required by 30 TEX. ADMIN. CODE § 290.122; and
- c. Within 45 days after the effective date of this Order, Mr. Cantu shall submit written certification of compliance with Ordering Provisions 2.a. and 2.b. as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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 copies to:

Carolyn Runyon  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 South Interstate Highway 35, Suite 100  
Austin, Texas 78704-5712

and

Water Supply Division PDWS-MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087

Austin, Texas 78711-3087

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. Cantu. Mr. Cantu 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. Cantu shall be made in writing to the Executive Director. Extensions are not effective until Mr. Cantu 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. Cantu if the Executive Director determines that Mr. Cantu 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.

Hank Cantu dba Hills of Texas Bulk Water  
DOCKET NO. 2007-1826-PWS-E  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF PATRICK N. JACKSON**

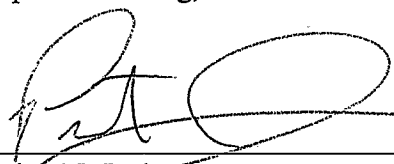
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Patrick N. Jackson. 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 Hank Cantu dba Hills of Texas Bulk Water” (the “EDPRP”) with the Office of the Chief Clerk on May 8 2008.

I sent the EDPRP to Mr. Cantu at his last known address on May 8, 2008 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).

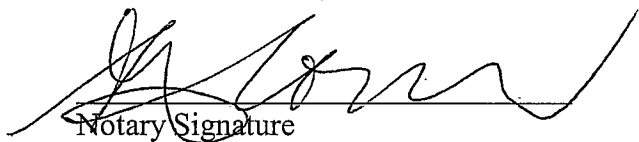
More than 20 days have elapsed since Mr. Cantu received notice of the EDPRP. Mr. Cantu failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



\_\_\_\_\_  
Patrick N. Jackson  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Patrick N. Jackson, 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 20<sup>th</sup> day of June, A.D., 2008.

  
\_\_\_\_\_  
Notary Signature

Notary Stamp

