

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0055-PWS-E **TCEQ ID:** RN101611804 **CASE NO.:** 26237

RESPONDENT NAME: United States Department of Agriculture, Animal and Plant Health Inspection Service

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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: USDA Moore Field, located approximately 2,000 feet west of State Highway 681 and 7,500 feet north of the intersection of County Road 1925 and State Highway 681, Hidalgo County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 May 25, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Alfredo Garcia, Jr., Facility Manager, United States Department of Agriculture, Animal and Plant Health Inspection Service, 22675 North Moorefield Road, Suite 6407, Edinburg, Texas 78541 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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 16, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 18, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. [30 TEX. ADMIN. CODE § 290.113(f)(4), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2005-1262-PWS-E, Ordering Provision 2.a].</p> <p>2) Failed to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5"), based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(5), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2005-1262-PWS-E, Ordering Provision 2.b].</p>	<p>Total Assessed: \$2,850</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,850</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: This is a Findings Order because it involves violations of a prior Agreed Order, which demonstrates indifference to legal duty.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM;</p> <p>b) Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for HAA5; and</p> <p>c) Within 380 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 a. and b.</p>

Additional ID No(s): PWS 1080075



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Jan-2009	Screening	12-Jan-2009	EPA Due	1-Jan-2007
	PCW	12-Jan-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	United States Department of Agriculture, Animal and Plant Health Inspection Service		
Reg. Ent. Ref. No.	RN101611804		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	26237	No. of Violations	2
Docket No.	2009-0055-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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: The penalty enhancement is due to 12 prior Notices of Violation ("NOV"s) for violations that are the same as or similar to the violations in the current enforcement action, five prior dissimilar NOV's, and an agreed final enforcement order containing a denial of liability.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 12-Jan-2009

Docket No. 2009-0055-PWS-E

PCW

Respondent United States Department of Agriculture, Animal and Plant

Policy Revision 2 (September 2002)

Case ID No. 26237

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101611804

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	12	60%
	Other written NOV's	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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) 90%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to 12 prior Notices of Violation ("NOV"s) for violations that are the same as or similar to the violations in the current enforcement action, five prior dissimilar NOV's, and an agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 90%

Screening Date 12-Jan-2009	Docket No. 2009-0055-PWS-E	PCW	
Respondent United States Department of Agriculture, Animal and Plant Health I	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 26237	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101611804			
Media [Statute] Public Water Supply			
Enf. Coordinator Epifanio Villarreal			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.113(f)(4), Tex. Health & Safety Code § 341.0315(c), TCEQ Agreed Order Docket No. 2005-1262-PWS-E, Ordering Provision 2.a."/>		
Violation Description	<input ("mg="" ("tthm"),="" 0.080="" 0.227="" 0.232="" 0.254="" 0.257="" 2007,="" 2008,="" 2008."="" a="" and="" annual="" average="" average.="" based="" concentrations="" first="" for="" fourth="" l="" l")="" liter="" mcl")="" mg="" milligrams="" of="" on="" per="" quarter="" running="" second="" specifically,="" the="" third="" total="" trihalomethanes="" tthm="" type="text" value="Failed to comply with the maximum contaminant level (" were=""/>		
Base Penalty		<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Exceeding the MCL for TTHM exposes customers of the water supply to significant amounts of contaminants that do not exceed levels that are protective of human health."/>		
Adjustment		<input type="text" value="\$750"/>	
		<input type="text" value="\$250"/>	
Violation Events			
Number of Violation Events		<input type="text" value="3"/>	<input type="text" value="1072"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$750"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text" value="x"/>	
	single event	<input type="text"/>	
<input type="text" value="Three annual events are recommended from the effective date of TCEQ Agreed Order Docket No. 2005-1262-PWS-E, February 5, 2006, to the date of screening January 12, 2009."/>			
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
Violation Subtotal		<input type="text" value="\$750"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$1,541"/>	Violation Final Penalty Total	<input type="text" value="\$1,425"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,425"/>	

Economic Benefit Worksheet

Respondent United States Department of Agriculture, Animal and Plant Health Inspection Service
Case ID No. 26237
Reg. Ent. Reference No. RN101611804
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	5-Feb-2006	1-Jul-2010	4.40	\$73	\$1,468	\$1,541
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to implement an alternative method of disinfection, calculated from the effective date of TCEQ Agreed Order Docket No. 2005-1262-PWS-E, to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,541

Screening Date 12-Jan-2009	Docket No. 2009-0055-PWS-E	PCW		
Respondent United States Department of Agriculture, Animal and Plant Health In:	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 26237	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN101611804				
Media [Statute] Public Water Supply				
Enf. Coordinator Epifanio Villarreal				
Violation Number 2				
Rule Cite(s)	30 Tex. Admin. Code § 290.113(f)(5), Tex. Health & Safety Code § 341.0315(c), TCEQ Agreed Order Docket No. 2005-1262-PWS-E, Ordering Provision 2.b.			
Violation Description	Failed to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5"), based on a running annual average. Specifically, the running annual average concentrations for HAA5 were 0.095 mg/L for the third quarter of 2007, 0.076 mg/L for the fourth quarter of 2007, 0.062 mg/L for the first quarter of 2008, and 0.093 mg/L for the second quarter of 2008.			
Base Penalty		\$1,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	x	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Percent		25%		
>>> Programmatic Matrix				
Falsification				
Major Moderate Minor				
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Percent		0%		
Matrix Notes	Exceeding the MCL for HAA5 exposes customers of the water supply to significant amounts of contaminants that do not exceed levels that are protective of human health.			
Adjustment		\$750		
		\$250		
Violation Events				
Number of Violation Events		3	Number of violation days	
		1072		
mark only one with an x	daily	<input type="checkbox"/>	Violation Base Penalty	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	x		
	single event	<input type="checkbox"/>		
Violation Base Penalty		\$750		
Three annual events are recommended from the effective date of TCEQ Agreed Order Docket No. 2005-1262-PWS-E, February 5, 2006, to the date of screening January 12, 2009.				
Good Faith Efforts to Comply		0.0% Reduction	\$0	
		Before NOV NOV to EDRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$750		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$0	Violation Final Penalty Total	
			\$1,425	
		This violation Final Assessed Penalty (adjusted for limits)		
		\$1,425		

Economic Benefit Worksheet

Respondent United States Department of Agriculture, Animal and Plant Health Inspection Service:

Case ID No. 26237

Reg. Ent. Reference No. RN101611804

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit reflected in violation no. 1 of the PCW.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602297707	US Department of Agriculture, APHIS	Classification: AVERAGE	Rating: 2.22
Regulated Entity:	RN101611804	USDA MOORE FIELD	Classification: AVERAGE	Site Rating: 0.80
ID Number(s):	WASTEWATER	PERMIT	WQ0014155001	
	WASTEWATER	PERMIT	WQ0004750000	
	WASTEWATER	PERMIT	WQ0004750000	
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1080075	
	WATER LICENSING	LICENSE	1080075	
Location:	Located approximately 2,000 feet west of State Highway 681 and 7,500 feet North of the intersection of County Road 1925 and State Highway 681, Hidalgo County, Texas			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	January 13, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 13, 2004 to January 13, 2009			

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

Name: Epi Villarreal Phone: 361-825-3425

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 |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO | |

Components (Multimedia) for the Site :

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

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| Effective Date: 02/05/2006 | ADMINORDER 2005-1262-PWS-E |
| Classification: Major | |
| Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THC Chapter 341, SubChapter A 341.0315(c) | |
| Description: Failed to comply with the maximum contaminant level (MCL) of 0.060 mg/l for haloacetic acids based on a running annual average for the fourth quarter of 2004. | |
| Classification: Major | |
| Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THC Chapter 341, SubChapter A 341.0315(c) | |
| Description: Failed to comply with the maximum contaminant level (MCL) of 0.060 mg/l for haloacetic acids based on a running annual average for the first quarter of 2005. | |
| Classification: Major | |
| Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c) | |
| Description: Failed to comply with the maximum contaminant level (MCL) of 0.080 mg/l for total trihalomethanes based on a running annual average for the third quarter of 2004. | |
| Classification: Major | |
| Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c) | |
| Description: Failed to comply with the maximum contaminant level (MCL) of 0.080 mg/l for total trihalomethanes based on a running annual average for the fourth quarter of 2004. | |
| Classification: Major | |
| Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THC Chapter 341, SubChapter A 341.0315(c) | |
| Description: Failed to comply with the maximum contaminant level (MCL) of 0.080 mg/l for total | |

trihalomethanes based on a running annual average for the first quarter of 2005.

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	04/23/2004	(267486)
2	04/23/2004	(267493)
3	09/08/2004	(333654)
4	03/23/2005	(373595)
5	05/17/2005	(380603)
6	06/15/2005	(395280)
7	03/10/2006	(457811)
8	02/13/2007	(537239)
9	02/22/2007	(540201)
10	05/18/2007	(652335)
11	05/18/2007	(652336)
12	08/08/2007	(652575)
13	08/10/2007	(652713)
14	11/15/2007	(653093)
15	11/15/2007	(708488)
16	11/30/2007	(610289)
17	02/08/2008	(652155)
18	02/08/2008	(652156)
19	04/03/2008	(708996)
20	04/03/2008	(709017)
21	08/28/2008	(686331)
22	08/28/2008	(709043)
23	08/28/2008	(709068)
24	01/07/2009	(709157)

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

Date: 04/23/2004 (267486)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TCEQ Permit No. 14155-001 PERMIT

Description: Failure to maintain a 30-day average flow of less than 0.0033 MGD.

Date: 03/21/2005 (373595)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to properly calibrate flow measuring devices at the water treatment plant at least once every 12 months and the well meter at least once every three years.

Date: 02/22/2007 (540201)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(16)

Description: Failure to provide a computer at the water treatment plant for recording performance data, maintaining records, and submitting reports to this agency.

Date: 05/18/2007 (652335)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: TOTAL TRIHALOMETHANES

Date: 05/18/2007 (652336)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: HAA5

Date: 08/08/2007 (652575)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: HAA5
 Date: 08/10/2007 (652713)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: TOTAL TRIHALOMETHANES
 Date: 11/15/2007 (708488)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2007.
 Date: 11/15/2007 (653093)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.
 Date: 11/30/2007 (610289)
 Self Report? NO Classification: Minor

Citation: IV. Conditions of the Permit, (Page 2) PERMIT
 Description: Failure to submit annual effluent data during the month of September of each calendar year.
 Date: 02/08/2008 (652155)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.
 Date: 02/08/2008 (652156)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2007.
 Date: 04/03/2008 (708996)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2008.
 Date: 04/03/2008 (709017)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.
 Date: 08/27/2008 (686331)
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(16)
 Description: Failure to provide a computer at the water treatment plant for recording performance data, maintaining records, and submitting reports to this agency.
 Date: 08/28/2008 (709043)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2008.
 Date: 08/28/2008 (709068)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

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
UNITED STATES DEPARTMENT OF
AGRICULTURE, ANIMAL AND PLANT
HEALTH INSPECTION SERVICE
RN101611804

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0055-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 United States Department of Agriculture, Animal and Plant Health Inspection Service ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent 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, the Respondent 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 the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located approximately 2,000 feet west of State Highway 681 and 7,500 feet north of the intersection of County Road 1925 and State Highway 681, Hidalgo County, Texas (the "Facility") that has approximately 33 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on November 16, 2008, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentrations for TTHM were 0.232 mg/L for the third quarter of 2007, 0.227 mg/L for the fourth quarter of 2007, 0.254 mg/L for the first quarter of 2008, and 0.257 mg/L for the second quarter of 2008.
3. During a record review conducted on November 16, 2008, TCEQ staff documented that the Respondent did not comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5"), based on a running annual average. Specifically, the running annual average concentrations for HAA5 were 0.095 mg/L for the third quarter of 2007, 0.076 mg/L for the fourth quarter of 2007, 0.062 mg/L for the first quarter of 2008, and 0.093 mg/L for the second quarter of 2008.
4. The Respondent received notice of the violations on or about November 23, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent 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, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2005-1262-PWS-E, Ordering Provision 2.a.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2005-1262-PWS-E, Ordering Provision 2.b.
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent 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.
5. An administrative penalty in the amount of Two Thousand Eight Hundred Fifty Dollars (\$2,850) 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). The Respondent has paid the Two Thousand Eight Hundred Fifty Dollar (\$2,850) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Eight Hundred Fifty Dollars (\$2,850) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent'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: United States Department of Agriculture, Animal and Plant Health Inspection Service, Docket No. 2009-0055-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113;
 - b. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - c. Within 380 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 Provisions 2.a. and 2.b. 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 fines 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:

DBP Compliance Coordinator
Water Supply Division/PDWS, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
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 the Respondent if the Executive Director determines that the Respondent 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 the Respondent 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted

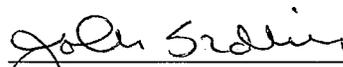
by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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



For the Executive Director

4/28/2009
Date

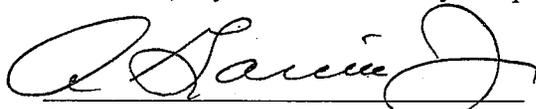
I, the undersigned, have read and understand the attached Agreed Order in the matter of United States Department of Agriculture, Animal and Plant Health Inspection Service. I am authorized to agree to the attached Agreed Order on behalf of United States Department of Agriculture, Animal and Plant Health Inspection Service, 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, United States Department of Agriculture, Animal and Plant Health Inspection Service 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

MARCH 30, 2009
Date

ALFREDO GARCIA JR

FACILITY MANAGER

Name (Printed or typed)

Title

Authorized Representative of

United States Department of Agriculture, Animal and Plant Health Inspection Service

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