

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2008-0962-PWS-E TCEQ ID: RN101198331 CASE NO.: 36035
RESPONDENT NAME: SHAWN HORVATH DBA AERO VALLEY WATER SERVICE**

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 VIOLATIONS OCCURRED: East of Interstate 35 West, ½ mile south of FM 1171 on Cleveland Gibbs Road at Northwest Regional Airport, Denton 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 location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired July 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558 TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901 Respondent: Mr. Shawn Horvath, Owner, Aero Valley Water Service, 5281 Kelly Drive, Roanoke, Texas 76262 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 Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: February 18, 2008, June 11, 2008 and July 31, 2008</p> <p>Dates of NOEs Relating to this Case: March 31, 2008 and July 25, 2008</p> <p>Background Facts: The EDPRP was filed December 2, 2008, and mailed to the Respondent 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 December 15, 2008. The EDFARP was filed March 12, 2009, and mailed to the Respondent 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 EDFARP on March 23, 2009. The EDSARP was filed April 2, 2009, and mailed to the Respondent 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 EDSARP on April 17, 2009. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation verifying compliance. The Respondent owes \$897.52 in past-due fees.</p> <p>PWS:</p> <p>1. Failed to collect routine distribution water samples for coliform analysis for the months of July 2007 through December 2007 and failed to provide public notification of the failure to sample for the months of July 2007 and December 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Total Assessed: \$5,133</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$5,133</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 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>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately: <ol style="list-style-type: none"> a. Begin collecting routine distribution coliform samples which are representative of the Facility's water system; b. Begin collecting repeat samples within 24 hours of being notified of a total coliform-positive sample result; and c. Begin posting public notice as required. 2. Within 30 days: <ol style="list-style-type: none"> a. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for year 2007 to each paying customer and to non-bill paying customers; and b. Pay all outstanding fees, including associated fees penalties and interest for Financial Administration Account No. 90610243. 3. Within 45 days <ol style="list-style-type: none"> a. Submit a copy of the CCR provided to customers and the certification that the CCR has been distributed to the customers and the information is correct and consistent with compliance monitoring data; and b. Certify compliance with Ordering Provisions 1.a. through 3.a. 4. Within 180 days, comply with coliform monitoring requirements and provide water that meets the provisions regarding microbial contaminants. 5. Within 210 days, certify compliance with Ordering Provision 4.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>2. Failed to collect a set of repeat samples within twenty-four hours of being notified of a total coliform-positive sample result and failed to provide public notification of the failure to collect repeat water samples for the month of March 2008 [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].</p> <p>3. Failed to mail or deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a) and 290.274(c)].</p> <p>4. Failed to pay all annual and late Public Health Service Fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Years 2003 through 2008 to the TCEQ in a timely manner [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	12-May-2008	Screening	11-Jun-2008	EPA Due	1-Jun-2002
	PCW	8-Aug-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Shawn Horvath dba Aero Valley Water Service
Reg. Ent. Ref. No.	RN101198331
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36035	No. of Violations	4
Docket No.	2008-0962-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		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 Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* 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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 11-Jun-2008

Docket No. 2008-0962-PWS-E

PCW

Respondent Shawn Horvath dba Aero Valley Water Service

Policy Revision 2 (September 2002)

Case ID No. 36035

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101198331

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	13	65%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 65%

>> 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

Penalty enhancement is due to thirteen Notices of Violation ("NOVs") that contain violations that are similar to those contained in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 11-Jun-2008	Docket No. 2008-0962-PWS-E	PCW
Respondent Shawn Horvath dba Aero Valley Water Service	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36035	<small>PCW Revision June 12, 2008</small>	
Reg. Ent. Reference No. RN101198331		
Media [Statute] Public Water Supply		
Enf. Coordinator Stephen Thompson		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)	
Violation Description	Failed to collect routine distribution water samples for coliform analysis for the months of July 2007 through December 2007 and failed to provide public notification of the failure to sample for the months of July 2007 through December 2007.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
	Release	Major	Moderate		Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
	Potential	x	<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

Failure to perform bacteriological monitoring of the public water supply may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	monthly	x
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty \$1,500

Six monthly events are recommended for the months during which no routine sampling was conducted nor any public notification provided to consumers.

Good Faith Efforts to Comply

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 \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total \$3,143

This violation Final Assessed Penalty (adjusted for limits) \$3,143

Economic Benefit Worksheet

Respondent Shawn Horvath dba Aero Valley Water Service
Case ID No. 36035
Reg. Ent. Reference No. RN101198331
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

Avoided Costs

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$600	1-Jul-2007	31-Dec-2007	0.50	\$15	\$301	\$316
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

The avoided costs include the amount necessary to perform routine monthly bacteriological sampling as well as provide public notification of the failure to sample to consumers, calculated for the months during which routine sampling ought to have occurred and public notification ought to have been provided to consumers.

Approx. Cost of Compliance	\$600	TOTAL	\$316
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Screening Date 11-Jun-2008	Docket No. 2008-0962-PWS-E	PCW		
Respondent Shawn Horvath dba Aero Valley Water Service		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36035		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN101198331				
Media [Statute] Public Water Supply				
Enf. Coordinator Stephen Thompson				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)			
Violation Description	Failed to collect a set of repeat samples within 24 hours of being notified of a total coliform-positive sample result and failed to provide public notification of the failure to collect repeat water samples for the month of March 2008.			
	Base Penalty	<input type="text" value="\$1,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual <input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential <input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
		Percent	<input type="text" value="25%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Failure to collect repeat samples of the public water supply in a timely manner may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.			
	Adjustment	<input type="text" value="\$750"/>		
		Adjustment	<input type="text" value="\$250"/>	
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="31"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One monthly event is recommended.				
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"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	<input type="text" value="\$250"/>		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$210"/>	Violation Final Penalty Total	<input type="text" value="\$524"/>	
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$524"/>	

Economic Benefit Worksheet

Respondent Shawn Horvath dba Aero Valley Water Service
 Case ID No. 36035
 Reg. Ent. Reference No. RN101198331
 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
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

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$200	1-Mar-2008	1-Apr-2008	1.00	\$10	\$200	\$210
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to provide notification to customers of the failure to collect repeat monitoring samples within 24 hours of being notified of a total coliform positive result, calculated for the month during which the notification ought to have been provided.

Approx. Cost of Compliance \$200

TOTAL \$210

Screening Date 11-Jun-2008	Docket No. 2008-0962-PWS-E	PCW	
Respondent Shawn Horvath dba Aero Valley Water Service	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 36035	<small>PCW Revision June 12, 2008</small>		
Reg. Ent. Reference No. RN101198331			
Media [Statute] Public Water Supply			
Enf. Coordinator Stephen Thompson			
Violation Number 3			
Rule Cite(s)	30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and 290.274(c)		
Violation Description	Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2000 through 2006.		
Base Penalty		\$1,000	
>> Environmental, Property and Human Health Matrix			
Harm			
	Major	Moderate	Minor
Release			
Actual			
Potential			
Percent		0%	
>> Programmatic Matrix			
	Major	Moderate	Minor
Falsification			
	x		
Percent		10%	
Matrix Notes	100% of the rule requirement was not met.		
Adjustment		\$900	
		\$100	
Violation Events			
Number of Violation Events 7		Number of violation days 2191	
<small>mark only one with an x</small>	daily		
	monthly		
	quarterly		
	semiannual		
	annual	x	
	single event		
Violation Base Penalty		\$700	
Seven annual events are recommended for the seven years during which no CCR or certification of delivery was submitted to the TCEQ.			
Good Faith Efforts to Comply		0.0% Reduction \$0	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		\$700	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount \$565		Violation Final Penalty Total \$1,467	
		This violation Final Assessed Penalty (adjusted for limits) \$1,467	

Economic Benefit Worksheet

Respondent Shawn Horvath dba Aero Valley Water Service
Case ID No. 36035
Reg. Ent. Reference No. RN101198331
Media 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
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

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$420	1-Jul-2001	1-Jul-2007	6.92	\$145	\$420	\$565
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which reports ought to have been distributed.

Approx. Cost of Compliance \$420

TOTAL \$565

Screening Date 11-Jun-2008	Docket No. 2008-0962-PWS-E	PCW																
Respondent Shawn Horvath dba Aero Valley Water Service		<small>Policy Revision 2 (September 2002)</small>																
Case ID No. 36035		<small>PCW Revision June 12, 2008</small>																
Reg. Ent. Reference No. RN101198331																		
Media [Statute] Public Water Supply																		
Enf. Coordinator Stephen Thompson																		
Violation Number <input type="text" value="4"/>																		
Rule Cite(s)	30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702																	
Violation Description	Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Years 2003 through 2008 to the TCEQ in a timely manner.																	
	Base Penalty	\$1,000																
>> Environmental, Property and Human Health Matrix																		
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> </tr> </table>		Harm			Release	Major	Moderate	Minor	Actual				Potential				Percent <input type="text" value="0%"/>
	Harm																	
Release	Major	Moderate	Minor															
Actual																		
Potential																		
>> Programmatic Matrix																		
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> </tr> </table>		Major	Moderate	Minor	Falsification				Percent <input type="text" value="0%"/>								
	Major	Moderate	Minor															
Falsification																		
Matrix Notes																		
	Adjustment	\$1,000																
		\$0																
Violation Events																		
	Number of Violation Events <input type="text"/>	Number of violation days <input type="text"/>																
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: center;">daily</td><td style="border: 1px solid black; width: 40px; height: 15px;"></td></tr> <tr><td style="text-align: center;">monthly</td><td style="border: 1px solid black; width: 40px; height: 15px;"></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="border: 1px solid black; width: 40px; height: 15px;"></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="border: 1px solid black; width: 40px; height: 15px;"></td></tr> <tr><td style="text-align: center;">annual</td><td style="border: 1px solid black; width: 40px; height: 15px;"></td></tr> <tr><td style="text-align: center;">single event</td><td style="border: 1px solid black; width: 40px; height: 15px;"></td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event		Violation Base Penalty <input type="text" value="\$0"/>				
daily																		
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quarterly																		
semiannual																		
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single event																		
All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.																		
Good Faith Efforts to Comply	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">0.0% Reduction</td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> </tr> <tr> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDRP/ Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="border: 1px solid black; width: 40px; height: 15px;"></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>	0.0% Reduction		Before NOV	NOV to EDRP/ Settlement Offer	Extraordinary		Ordinary		N/A	(mark with x)	\$0						
0.0% Reduction																		
Before NOV	NOV to EDRP/ Settlement Offer																	
Extraordinary																		
Ordinary																		
N/A	(mark with x)																	
	Notes																	
		Violation Subtotal <input type="text" value="\$0"/>																
Economic Benefit (EB) for this violation	Statutory Limit Test																	
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total	\$0																
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$0"/>																	

Economic Benefit Worksheet

Respondent Shawn Horvath dba Aero Valley Water Service
Case ID No. 36035
Reg. Ent. Reference No. RN101198331
Media 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				0.00	\$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

There is no economic benefit associated with this violation.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

Customer/Respondent/Owner-Operator:	CN600643563 HORVATH, SHAWN	Classification:	Rating:
Regulated Entity:	RN101198331 AERO VALLEY WATER SERVICE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION		0610243
Location:	E OF I35 W ON FM 1171, 1/2 MI S ON CLEVELAND GIBBS RD AT NW REGIONAL AIRPORT, DENTON COUNTY, TX		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	July 28, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 28, 2003 to July 28, 2008		

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

Name: Stephen Thompson Phone: (512) 239-2558

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 08/15/2003 (376748)
 - 2 10/15/2003 (376788)
 - 3 11/06/2003 (376800)
 - 4 12/03/2003 (376816)
 - 5 01/13/2004 (376834)
 - 6 01/14/2004 (376777)
 - 7 01/28/2004 (376837)
 - 8 02/27/2004 (376846)
 - 9 03/30/2004 (376854)
 - 10 05/05/2004 (376859)
 - 11 05/26/2004 (376880)
 - 12 07/02/2004 (376884)
 - 13 07/29/2004 (376888)
 - 14 08/27/2004 (376912)
 - 15 10/01/2004 (376919)
 - 16 11/01/2004 (376928)
 - 17 11/30/2004 (376933)
 - 18 12/28/2004 (376935)
 - 19 01/28/2005 (376942)
 - 20 03/03/2005 (376943)
 - 21 04/26/2005 (378609)
 - 22 05/09/2006 (457873)
 - 23 02/15/2007 (644175)
 - 24 03/15/2007 (644310)
 - 25 04/15/2007 (644475)
 - 26 05/15/2007 (644700)

27 06/15/2007 (644958)
28 07/15/2007 (645341)
29 08/15/2007 (645660)
30 10/01/2007 (645972)
31 11/01/2007 (646115)
32 04/10/2008 (670343)
33 04/25/2008 (681047)
34 05/09/2008 (654945)
35 07/24/2008 (594975)

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

Date: 02/15/2007 (644175)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 01/2007 – Failure to collect any routine sample(s).

Date: 03/15/2007 (644310)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 02/2007 – Failure to collect any routine sample(s).

Date: 04/15/2007 (644475)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 03/2007 – Failure to collect any routine sample(s).

Date: 05/15/2007 (644700)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 04/2007 – Failure to collect any routine sample(s).

Date: 06/15/2007 (644958)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 05/2007 – Failure to collect any routine sample(s).

Date: 07/30/2007 (645341)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect and submit monthly water samples for bacteriological analysis in 06/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide public notification for the failure to collect water samples in 06/2007.

Date: 09/10/2007 (645660)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect and submit monthly water samples for bacteriological analysis in 07/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide public notification for the failure to collect water samples in 07/2007.

Date: 11/01/2007 (594975)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect and submit monthly water samples for bacteriological analysis in 08/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide public notification for the failure to collect water samples in 08/2007.

Date: 12/20/2007 (594975)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect and submit monthly water samples for bacteriological analysis in 09/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide public notification for the failure to collect water samples in 09/2007.

Date: 01/31/2008 (594975)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect and submit monthly water samples for bacteriological analysis in 10/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide public notification for the failure to collect water samples in 10/2007.

Date: 02/14/2008 (594975)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect and submit monthly water samples for bacteriological analysis in 11/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide public notification for the failure to collect water samples in 11/2007.

Date: 02/21/2008 (594975)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect and submit monthly water samples for bacteriological analysis in 12/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide public notification for the failure to collect water samples in 12/2007.

Date: 04/29/2008 (670343)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 03/2008 – Failure to collect any repeat sample(s) following a coliform found result.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Repeat Monitoring Violation 03/2008 – Failure to post a public notice for not collecting any repeat sample(s) following a coliform found result.

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
SHAWN HORVATH DBA AERO
VALLEY WATER SERVICE;
RN101198331

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2008-0962-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5 and 7, 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 Shawn Horvath dba Aero Valley Water Service ("Mr. Horvath").

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

FINDINGS OF FACT

1. Mr. Horvath owns and operates a public water supply located at east of Interstate 35 West, one-half mile south of Farm-to-Market Road 1171 on Cleveland Gibbs Road at Northwest Regional Airport in Denton County, Texas (the "Facility").
2. The Facility has twenty service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During record reviews conducted on February 18, 2008, June 11, 2008 and July 31, 2008, TCEQ staff documented that Mr. Horvath:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of July 2007 through December 2007 and failed to provide public notification of the failure to sample for the months July 2007 through December 2007;
 - b. Failed to collect a set of repeat samples within 24 hours of being notified of a total coliform-positive sample result and failed to provide public notification of the failure to collect repeat water samples for the month of March 2008;

- c. Failed to mail or directly deliver one copy of the Consumer Confidence Report (“CCR”) to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year—specifically, Mr. Horvath did not mail or directly deliver the CCRs to the water system’s customers for the years 2000 through 2006 nor did Mr. Horvath submit the CCR or the required certification to the TCEQ for the years 2000 through 2006; and
 - d. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Years 2003 through 2008 to the TCEQ in a timely manner.
4. Mr. Horvath received notice of the violations on or about April 5, 2008 and July 30, 2008.
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 Shawn Horvath dba Aero Valley Water Service” (the “EDPRP”) in the TCEQ Chief Clerk’s office on December 2, 2008.
6. By letter dated December 2, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Horvath with notice of the EDPRP. According to the return receipt “green card,” Mr. Horvath received notice of the EDPRP on December 15, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Horvath received notice of the EDPRP, provided by the Executive Director. Mr. Horvath failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
8. The Executive Director filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Shawn Horvath dba Aero Valley Water Service” (the “EDFARP”) in the TCEQ Chief Clerk’s office on March 12, 2009.
9. By letter dated March 12, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Horvath with notice of the EDFARP. According to the return receipt “green card,” Mr. Horvath received notice of the EDFARP on March 23, 2009, as evidenced by the signature on the card.

10. More than 20 days have elapsed since Mr. Horvath received notice of the EDFARP, provided by the Executive Director. Mr. Horvath failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
11. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Shawn Horvath dba Aero Valley Water Service" (the "EDSARP") in the TCEQ Chief Clerk's office on April 2, 2008.
12. By letter dated April 2, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Horvath with notice of the EDSARP. According to the return receipt "green card," Mr. Horvath received notice of the EDSARP on April 17, 2008, as evidenced by the signature on the card.
13. More than 20 days have elapsed since Mr. Horvath received notice of the EDSARP, provided by the Executive Director. Mr. Horvath failed to file an answer to the EDSARP, 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. Horvath is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Horvath failed to collect routine distribution water samples for coliform analysis for the months of July 2007 through December 2007 and failed to provide public notification of the failure to sample for the months of July 2007 through December 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3.b., Mr. Horvath failed to collect a set of repeat samples within twenty-four hours of being notified of a total coliform-positive sample result and failed to provide public notification of the failure to collect repeat water samples for the month of March 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).
4. As evidenced by Finding of Fact No. 3.c., Mr. Horvath failed to mail or deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance

monitoring data to the TCEQ by July 1 of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a) and 290.274(c).

5. As evidenced by Finding of Fact No. 3.d., Mr. Horvath failed to pay all annual and late Public Health Service Fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Years 2003 through 2008 to the TCEQ in a timely manner, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
6. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Horvath with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 7, Mr. Horvath failed to file a timely answer 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. Horvath and assess the penalty recommended by the Executive Director.
8. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director timely served Mr. Horvath with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
9. As evidenced by Finding of Fact No. 10, Mr. Horvath failed to file a timely answer the EDFARP 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. Horvath and assess the penalty recommended by the Executive Director.
10. As evidenced by Finding of Fact Nos. 11 and 12, the Executive Director timely served Mr. Horvath with proper notice of the EDSARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
11. As evidenced by Finding of Fact No. 13, Mr. Horvath failed to file a timely answer the EDSARP as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Horvath and assess the penalty recommended by the Executive Director.
12. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Horvath 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.

13. An administrative penalty in the amount of five thousand one hundred thirty-three dollars (\$5,133.00) 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.
14. 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. Horvath is assessed an administrative penalty in the amount of five thousand one hundred thirty-three dollars (\$5,133.00) for violations of the Texas Water Code, the Texas Health & Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and Mr. Horvath'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: Shawn Horvath dba Aero Valley Water Service; Docket No. 2008-0962-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. Horvath shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Commission Order, Mr. Horvath shall:
 - i. Begin collecting routine distribution coliform samples which are representative of the Facility's water system, as required by 30 TEX. ADMIN. CODE § 290.109;

- ii. Begin collecting repeat samples within 24 hours of being notified of a total coliform-positive sample result, as required by 30 TEX. ADMIN. CODE § 290.109; and
 - iii. Begin posting public notice as required by 30 TEX. ADMIN. CODE § 290.122.
- b. Within 30 days after the effective date of this Commission Order:
- i. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good-faith effort to deliver to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.271 and 290.274; and
 - ii. Pay all outstanding fees, including any associated penalties and interest for Financial Administration Account No. 90610243, as required by 30 TEX. ADMIN. CODE § 290.51 and TEX. WATER CODE § 5.702. The payment shall include the notation "Shawn Horvath dba Aero Valley Water Service, Account No. 90610243" and shall be mailed 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

- c. Within 45 days after the effective date of this Commission Order, Mr. Horvath shall submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Within 45 days after the effective date of this Commission Order, Mr. Horvath shall certify compliance with Ordering Provision Nos. 2.a., 2.b., and 2.c.

- e. Within 180 days after the effective date of this Commission Order, comply with the coliform monitoring requirements and provide water that meets the provisions regarding microbial contaminants, as required by 30 TEX. ADMIN. CODE § 290.109.
- f. Within 210 days after the effective date of this Commission Order, Mr. Horvath shall certify compliance with Ordering Provision No. 2.e.
- g. Mr. Horvath shall submit written certification as described below, and shall include detailed supporting documentation including photographs, receipts, and/or other records necessary to demonstrate compliance with these Ordering Provisions. 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 and supporting documents 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:

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas / Fort Worth Regional Office
2309 Gravel Dr.
Fort Worth, Texas 76118-6951

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF TOMMY TUCKER HENSON II

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

“My name is Tommy Tucker Henson II. 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, 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 Shawn Horvath dba Aero Valley Water Service” (the “EDPRP”) was filed with the Office of the Chief Clerk on December 2, 2008.

The EDPRP was mailed to Mr. Horvath at his last known address on December 2, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Horvath received notice of the EDPRP on December 15, 2008, as evidenced by the signature on the card.

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Shawn Horvath dba Aero Valley Water Service” (the “EDFARP”) was filed with the Office of the Chief Clerk on March 12, 2009.

The EDFARP was mailed to Mr. Horvath at his last known address on March 12, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Horvath received notice of the EDFARP on March 23, 2009, as evidenced by the signature on the card.

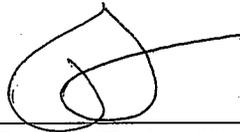
More than 20 days have elapsed since Mr. Horvath received notice of the EDFARP. Mr. Horvath failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative

Penalty Against and Requiring Certain Actions of Shawn Horvath dba Aero Valley Water Service” (the “EDSARP”) was filed with the Office of the Chief Clerk on April 2, 2009.

The EDSARP was mailed to Mr. Horvath at his last known address on April 2, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Horvath received notice of the EDSARP on April 17, 2009, as evidenced by the signature on the card.

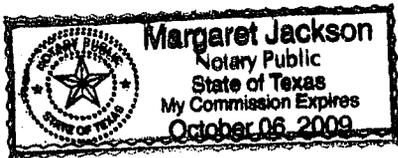
More than 20 days have elapsed since Mr. Horvath received notice of the EDSARP. Mr. Horvath failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”



Tommy Tucker Henson II, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tommy Tucker Henson II, 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 14 day of May, A.D., 2009.




Notary Signature