

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0968-PWS TCEQ ID: RN101456168 CASE NO.: 25905**  
**RESPONDENT NAME: WINDWOOD WATER SYSTEM, INC.**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 13526 Creekway Drive, Cypress, Harris County

**TYPE OF OPERATION:** Public water supply

**SMALL BUSINESS:**  Yes  No

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

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired September 21, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Andrea Linson-Mgbeoduru, Water Enforcement Section, MC 169, (512) 239-1482

**TCEQ Regional Contact:** Mr. Steve Smith, Houston Regional Office, MC R-12, (713) 767-3581

**Respondent:** Mr. John Farley, President, Winwood Water System, Inc., 13502 Creekway Drive, Cypress, Texas 77429

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 18, 2008</p> <p><b>Date of NOE Relating to this Case:</b> July 18, 2008</p> <p><b>Background Facts:</b> The EDRP was filed June 9, 2009. Settlement was achieved and a signed Agreed Order was received on July 19, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance with the technical requirements. This water system is recognized by the EPA as being significantly non-compliant (SNC).</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>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 failing 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 date to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a), and 290.274(c), and TCEQ Default Order 2005-1069-PWS-E, Ordering Provision No. 2].</li> <li>Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration No. 91010920 for Fiscal year 2008 [30 TEX. ADMIN. CODE § 290.51(a)(3)].</li> </ol>	<p><b>Total Assessed:</b> \$ 637</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$637</p> <p>The Respondent paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Indifference to legal duty based on violation of previous TCEQ default order.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, mail or directly deliver one copy of the CCR prepared using the compliance monitoring date for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying customers.</li> <li>Within 30 days submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91010920.</li> <li>Within 45 days, 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 monitoring date.</li> <li>Within 60 days, submit written certification to demonstrate compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

DATES	Assigned	19-May-2008	Screening	4-Jun-2008	EPA Due	1-May-2001
	PCW	4-Jun-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Windwood Water System, Inc.
Reg. Ent. Ref. No.	RN101456168
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	25905	No. of Violations	2
Docket No.	2008-0968-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeoduru
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes: Enhancement is due to one prior Notice of Violation with violations that are dissimilar to those in the current enforcement action, one prior agreed final enforcement order containing a denial of liability, and one prior default enforcement order.

**Culpability**   Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  Reduction Subtotal 5

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

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

Total EB Amounts   Enhancement\* Subtotal 6   
\*Capped at the Total EB \$ Amount  
 Approx. Cost of Compliance

**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: Enhancement recommended for the recovery of avoided costs.

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: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

Screening Date 4-Jun-2008

Docket No. 2008-0968-PWS-E

PCW

Respondent Windwood Water System, Inc.

Policy Revision 2 (September 2002)

Case ID No. 25905

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101456168

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

### 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)	0	0%
	Other written NOVs	1	2%
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	1	25%
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) 47%

>> 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

Enhancement is due to one prior Notice of Violation with violations that are dissimilar to those in the current enforcement action, one prior agreed final enforcement order containing a denial of liability, and one prior default enforcement order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

<b>Screening Date</b> 4-Jun-2008	<b>Docket No.</b> 2008-0968-PWS-E	<b>PCW</b>
<b>Respondent</b> Windwood Water System, Inc.	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 25905	<i>PCW Revision April 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101456168		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Andrea Linson-Mgbeoduru		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.271(b), 290.274(a), and 290.274(c) and TCEQ Default Order 2005-1069-PWS-E, Ordering Provision No. 2	
<b>Violation Description</b>	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 2004 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2004 through 2006.	
	<b>Base Penalty</b>	\$1,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
	<b>Harm</b>	
OR	Release	Major    Moderate    Minor
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
	<b>Percent</b>	0%
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification	Major    Moderate    Minor
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	<b>Percent</b>	10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.	
	<b>Adjustment</b>	\$900
		\$100
<b>Violation Events</b>		
<b>Number of Violation Events</b>	3	<b>Number of violation days</b> 1433
<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="checkbox"/>
	single event	<input type="text"/>
	<b>Violation Base Penalty</b>	\$300
Three annual events are recommended for the three years during which no CCR or certification of delivery was submitted to the TCEQ.		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$196	<b>Violation Final Penalty Total</b> \$637
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$637

## Economic Benefit Worksheet

**Respondent** Windwood Water System, Inc.

**Case ID No.** 25905

**Reg. Ent. Reference No.** RN101456168

**Media** Public Water Supply

**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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

**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]	\$171	1-Jul-2005	1-Jul-2007	2.92	\$25	\$171	\$196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost 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 the report was not distributed.

Approx. Cost of Compliance

\$171

TOTAL

\$196

Screening Date 4-Jun-2008

Docket No. 2008-0968-PWS-E

PCW

Respondent Windwood Water System, Inc.

Policy Revision 2 (September 2002)

Case ID No. 25905

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101456168

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input type="text"/>	<input type="text"/>	
	N/A				

Adjustment

Violation Events

Number of Violation Events  Number of violation days

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

Violation Base Penalty

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** Windwood Water System, Inc.

**Case ID No.** 25905

**Reg. Ent. Reference No.** RN101456168

**Media** Public Water Supply

**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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**

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)

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:	CN600626733 Windwood Water System, Inc.	Classification:	Rating:
Regulated Entity:	RN101456168 WINDWOOD WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010920
	WATER LICENSING	LICENSE	1010920
Location:	13526 CREEKWAY DR, CYPRESS, HARRIS COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 03, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 19, 2003 to May 19, 2008		

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

### 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.

**Effective Date: 01/26/2007**

**ADMINORDER 2005-1069-PWS-E**

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(b)

Description: Failure to provide (prepare and deliver) the 2000 Consumer Confidence Report to each bill paying customer, and to make a good faith effort to reach customers who do not receive water bills by July 1, 2001.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(b)

Description: Failure to provide (prepare and deliver) the 2001 Consumer Confidence Report to each bill paying customer, and to make a good faith effort to reach customers who do not receive water bills by, July 1, 2002.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(b)

Description: Failure to provide (prepare and deliver) the 2002 Consumer Confidence Report to each bill paying customer, and to make a good faith effort to reach customers who do not receive water bills by, July 1, 2003.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(b)

Description: Failure to provide (prepare and deliver) the 2003 Consumer Confidence Report to each bill paying customer, and to make a good faith effort to reach customers who do not receive water bills by, July 1, 2004.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: Failure to provide a copy of the 2000 Consumer Confidence Report and Certification of Delivery of the report to the Texas Commission On Environmental Quality by August 1, 2001.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: Failure to provide a copy of the 2001 Consumer Confidence Report and Certification of Delivery of the report to the Texas Commission On Environmental Quality by August 1, 2002.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: Failure to provide a copy of the 2002 Consumer Confidence Report and Certification of Delivery of the report to the Texas Commission On Environmental Quality by August 1, 2003.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: Failure to provide a copy of the 2003 Consumer Confidence Report and Certification of Delivery of the report to the Texas Commission On Environmental Quality by August 1, 2004.

Effective Date: 07/13/2007

ADMINORDER 2006-1772-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available a sanitary control easement for the well at the time of inspection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121

Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan for the Facility.

Classification: Moderate

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

Description: Failure to maintain a plant operations manual for operator review and reference.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to maintain a distribution system map.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)

Description: Failure to maintain chlorine residual monitoring records to document monitoring frequency and results.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to maintain the gate on the fence surrounding the well facilities locked.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)

Description: Failure to submit the Disinfectant Level Quarterly Operating Reports for the facility.

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 05/06/2004 (268071)
- 2 05/31/2005 (372314)
- 3 08/29/2006 (372427)
- 4 05/09/2008 (654974)

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

Date: 05/06/2004 (268071)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available a sanitary control easement for the well at the time of inspection.

Self Report? NO Classification: Moderate

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

Description: Failure to inspect the ground storage annually.

Self Report? NO Classification: Moderate

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

Description: Failure to inspect the pressure tank annually.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121

Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan for the Facility.

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  
WINDWOOD WATER  
SYSTEM, INC.  
RN101456168**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2008-0968-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Windwood Water System, Inc., ("Windwood") under the authority of TEX. WATER CODE chs. 5 and 7 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division and Windwood, presented this agreement to the Commission.

Windwood 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, Windwood agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Windwood.

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

**FINDINGS OF FACT**

1. Windwood owns and operates a public water supply at 13526 Creekway Drive in Cypress, Harris County, Texas (the "Facility").
2. The Facility provides water for human consumption, has 14 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 a record review conducted on February 18, 2008, TCEQ Central Office staff documented that Windwood violated the following requirements:
  - a. 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 failing to submit a copy of the annual CCR and certification that 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, Windwood did not mail or directly deliver the CCRs to the water system's customers for the years 2004 through 2006 nor did it submit the CCR or the required certification to the TCEQ for the years 2004 through 2006;
  - b. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 91010920 for Fiscal Year 2008.
4. Windwood received notice of the violations on or about July 23, 2008.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Windwood 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., Windwood failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failing 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) and TCEQ Default Order, Docket No. 2005-1069-PWS-E, Ordering Provision No. 2.
3. As evidenced by Finding of Fact No. 3.b. Windwood failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 91010920 for Fiscal Year 2008 in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and TEX. WATER CODE § 7.051 the Commission has the authority to assess an administrative penalty against Windwood 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 six hundred thirty-seven dollars (\$637.00) 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. Windwood paid six hundred thirty-seven dollars (\$637.00) of the administrative penalty.

### ORDERING PROVISIONS

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

1. Windwood is assessed an administrative penalty in the amount of six hundred thirty-seven dollars (\$637.00) as set forth in Conclusion of Law No. 5 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Windwood'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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Windwood Water System, Inc; Docket No. 2008-0968-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. Windwood shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Windwood shall 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 consumers, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274;
  - b. Within 30 days after the effective date of this Order, Windwood shall submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91010920. The payments shall be sent with the notation "RE: Windwood Water System, Inc. FA Account 91010920" to:

Financial Administration Division, Revenues Sections  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, TX 787-11-3088

- c. Within 45 days after the effective date of this Order, Windwood 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 60 days after the effective date of this Order, Windwood shall submit written certification and detailed supporting documentation, including photographs, receipts, and /or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. 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."

Windwood shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Order Compliance Team  
Enforcement Division, MC 149A  
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 Windwood. Windwood is ordered to give notice of this 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 Windwood shall be made in writing to the Executive Director. Extensions are not effective until Windwood 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 Windwood if the Executive Director determines that Windwood 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 Windwood 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

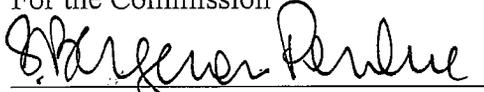
transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of the Agreed Order to Windwood, or three days after the date on which the Commission mails notice of this Agreed Order to Windwood, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

8/20/2009

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Windwood Water System, Inc. I represent that I am authorized to agree to the attached Agreed Order on behalf of Windwood Water System, Inc., 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 also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

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

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

  
\_\_\_\_\_  
Signature

Jon FARCEY

\_\_\_\_\_  
Name (printed or typed)

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Windwood Water System, Inc.

7-19-09  
\_\_\_\_\_  
Date

President  
\_\_\_\_\_  
Title