

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
AGENDA ITEM REQUEST**

NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED:

Peipey Tang, Litigation Division, (512) 239-0654

**CAPTION:** (as it should appear on the agenda with the name of the person PRESENTING the item listed at the end)

**Docket No. 2010-0912-UCR-E Consideration of whether to modify, affirm, or set aside the Emergency Order issued on June 4, 2010, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality to address the discontinuation of services at a retail public utility (Utility) by Thunderbird Bay Water Services, Inc., in Brown County; TCEQ ID Nos. RN102688371, RN102685773; and CCN11243, to ensure continued operation of the Utility, and to provide continuous and adequate service to the customers. The Emergency Order appointed John M. Fultz (“Mr. Fultz”) as temporary manager of the Utility. (Peipey Tang)**

  
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Kathleen C. Decker, Director  
Litigation Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2010-0912-UCR-E

CHIEF CLERKS OFFICE

2010 JUN -4 PM 3:55

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

<p>IN THE MATTER OF AN ENFORCEMENT ACTION AGAINST THUNDERBIRD BAY WATER SERVICES, INC.;</p>	<p>§ § § § § §</p>	<p>BEFORE THE  TEXAS COMMISSION ON  ENVIRONMENTAL QUALITY</p>
<p>RN102688371 RN102685773</p>		

**EMERGENCY ORDER  
APPOINTING A TEMPORARY MANAGER  
OF A WATER UTILITY**

On June 4, 2010, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued this Emergency Order pursuant to TEX. WATER CODE chs. 5 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The party made subject to this order is Thunderbird Bay Water Services, Inc. ("Thunderbird").

**I.  
FINDINGS OF FACT**

1. Thunderbird owns and operates a public water system referred to as Thunderbird Bay Subdivision, located on Phantom Hill Circle, Lot 362, May, Brown County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 767 service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. As such, the Utility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. The Utility operates pursuant to Certificate of Convenience and Necessity No. 11243.
4. The TCEQ alleges that the Utility has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service. The TCEQ alleges that the Utility has failed to adequately maintain its facilities or to provide sufficient facilities resulting in potential health hazards, extended outages, or repeated service interruptions.

5. Commission records show that the mailing address for Thunderbird's registered agent, Charles E. Schram III, is 100 Oak Point Dr., May, Texas 76857. Commission records show that the mailing address for Thunderbird's headquarters, is P.O. Box 795399, Dallas, Texas 75379.
6. No other source of water is available to the more than 2301 people whose water is supplied by the Utility.
7. During a complaint inspection at the Utility conducted on September 15, 2009, a TCEQ Abilene Regional Office investigator documented and alleges that Thunderbird:
  - a. Failed to monitor the Utility in accordance with TCEQ approved Disinfection Contact Time (CT) Analysis, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(1)(B);
  - b. Failed to apply for a formal exception from the TCEQ's Water Supply Division for a contact time study regarding switching disinfection methods (from Chlorine to Chloramine) to meet disinfection byproducts, in violation of 30 TEX. ADMIN. CODE § 290.39(j) and (j)(i)(B);
  - c. Failed to maintain a chlorine residual of 0.2 mg/L in the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(d);
  - d. Failed to maintain the 0.200 MG ground storage tank at the plant site in strict accordance with American Water Works Association (AWWA) standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - e. Failed to maintain the 0.038 MG standpipe at Tamarack Mountain in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - f. Failed to provide the Utility with automatic shutdown or provide a Class "C" or higher operator at all times the Utility is running, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(6)(C);
  - g. Failed obtain certification by the Hach Company that the online chlorine residual analyzer is in good working condition, in violation of TEX. WATER CODE § 7.101;
  - h. Failed to maintain the 0.020 MG ground storage tank at pump station 1 in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - i. Failed to maintain the 0.047 MG standpipe at the plant site in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);

- j. Failed to provide a raw water intake that is not located within 1,000 feet of a boat launching ramp and failed to provide a 200 foot restricted access around the raw water tank, in violation of 30 TEX. ADMIN. CODE § 290.41(e)(2)(B) and (e)(2)(C);
- k. Failed to provide a raw water pump capacity of 0.6 gallons per minute (GPM) per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(A);
- l. Failed to provide a treatment plant capacity of 0.6 GPM per connection under normal rated design flow, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(B);
- m. Failed to provide a transfer pump capacity of 0.6 GPM per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(C);
- n. Failed to provide sanitary facilities at the Utility, in violation of 30 TEX. ADMIN. CODE § 290.42(h);
- o. Failed to provide water service to customers within the Utility's CCN, in violation of 30 TEX. ADMIN. CODE § 291.85(a), TEX. WATER CODE §§ 13.139(a) and 13.250(a);
- p. Failed to submit a quarterly operational report for the second quarter 2009, in violation of TEX. WATER CODE § 7.101;
- q. Failed to submit written certification within 5 days after obtaining compliance with each injunctive provision, in violation of TEX. WATER CODE § 7.101;
- r. Failed to test the backflow prevention devices at the Harbor Point Community Center and the Tamarack Mountain Community Center in the past year, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4)(A)(i);
- s. Failed to maintain a record of the amount of chemicals used each day, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(I);
- t. Failed to maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a);
- u. Failed to conduct annual tank inspections in the past year, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1);
- v. Failed to maintain an up-to-date plant operations manual, in violation of 30 TEX. ADMIN. CODE § 290.42(l);
- w. Failed to flush dead-end mains and keep a flushing log, in violation of 30 TEX.

ADMIN. CODE § 290.46(l) and (f)(3)(A)(iv);

- x. Failed to maintain a complaint log, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(iii);
- y. Failed to label chemical feed lines, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(13);
- z. Failed to provide jar testing equipment for determining the optimum coagulant dose, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(15)(C)(vi);
- aa. Failed to provide adequate ventilation in the chlorine room, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(C);
- bb. Failed to provide an overflow that reaches ground level or provide a location for inspection purposes at the 0.020 MG GST, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3);
- cc. Failed to provide a 30-inch roof hatch at the 0.020 MG GST, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2);
- dd. Failed to provide a device that indicated the amount of chemical remaining in the facility or day tank, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(C);
- ee. Failed to return the decant backwash water upstream of raw water sample tap and coagulant feed point, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(3)(A);
- ff. Failed to maintain the ground of the water system, in violation of 30 TEX. ADMIN. CODE § 290.46(m);
- gg. Failed to calibrate the bench-top turbidity meter once every 90 days with primary standards and re-standardize the secondary standards at that time, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(ii);
- hh. Failed to check the calibration of the manual disinfectant residual analyzer with standards that are not out-of-date, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(C)(i);
- ii. Failed to provide a thermometer that has a minimum accuracy of plus or minus 0.5 degrees Celsius, in violation of 30 TEX. ADMIN. CODE § 290.111(d)(4)(B);
- jj. Failed to provide a functional standby unit for the disinfection unit, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3)(C);

- kk. Failed to maintain the distribution system in water-tight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4); and
  - ll. Failed to provide a finished water meter, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(5).
8. On May 31, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. The TCEQ investigators arrived at the Utility around 4 p.m. and were unable to locate the Utility operator. The Utility was non-operational. The Utility also lacked polymer. The Brown County Emergency Management provided potable water, available at the Harbor Point Volunteer Fire Department. (See "Attachment A")
  9. On June 1, 2010, TCEQ Abilene Regional Office investigators documented that water was out for all service areas of the Utility. The TCEQ investigator observed that polymer was not available and measured a turbidity reading of 20 Nephelometric Turbidity Units (NTU) at the Utility. The TCEQ investigator documented that the high service pumps were turned off overnight to let the tanks at the Utility fill up. (See "Attachment A")
  10. On June 2, 2010, a TCEQ Abilene Regional Office investigator documented that water was out for all service areas of the Utility. The TCEQ investigator documented that polymer was not available and measured a turbidity reading from the bench top turbidity meter of 54.6 NTU at the Utility. The TCEQ investigator also reviewed the raw water pumping data and found no readings from May 24, 2010 to May 29, 2010 and on June 1, 2010. The TCEQ investigator also documented that the Utility had been without a second raw water pump since September 2009, leaving the Utility with one 7740 GPH pump. (See "Attachment A")
  11. On June 3, 2010, a TCEQ Abilene Regional Office investigator documented at 10:30 a.m., that the Utility had 8 feet of water in the ground storage tank, 18 feet of water in the Tamarack Mountain Stand pipe, and 22 feet of water in the plant stand pipe. The TCEQ investigator documented a turbidity reading of 57 NTU. At 12:30 p.m. the TCEQ investigator documented that the Utility had 1 foot of water in the ground storage tank, 53 feet of water in the Tamarack Mountain stand pipe, and 23 feet of water in the plant stand pipe. The TCEQ investigator documented that Thunderbird turned off the high service pumps to let the ground storage tank build back up. (See "Attachment A")
  12. On June 4, 2010, a TCEQ Abilene Regional Office investigator observed that the Utility could not provide water to the Thunderbird Bay Subdivision. The TCEQ investigator observed that the Utility had 9.5 feet of water in the ground storage tank at the plant site, 50 feet of water in the Tamarack Mountain standpipe, and 28 feet of water in the standpipe at the plant site. (See "Attachment A")
  13. From June 1, 2010 to June 4, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. Some service areas of the Utility have been continuously out of water since May 31, 2010. Brown County provided bottled water and the

Department of Public Safety's Department of Emergency provided non-potable water to the Utility during this time period. (See "Attachment A")

14. A potential health hazard exists as a result of the Utility's failure to provide continuous and adequate service. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to assume operations of the Utility to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health & Safety Code, and is safe for public use and consumption.
15. John M. Fultz ("Mr. Fultz") has agreed to serve as temporary manager of the Utility and his mailing address is P.O. Box 868, Navasota, Texas 77868. His telephone number is (936) 825-4570.
16. This Order is necessary to ensure that continuous and adequate water service is provided to the customers of the Utility to effectuate the purposes of the Texas Water Code and the Texas Health and Safety Code.
17. Because Thunderbird has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service, this matter has been referred to the Attorney General's Office so that a petition may be filed to appoint a receiver under TEX. WATER CODE § 13.412 to guarantee continuous and adequate service to customers of the Utility.

## II. CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1, 2, and 3, Thunderbird owns and operates the retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 4, 7, 8, 9, 10, 11, 12, and 13 show that the Utility has discontinued providing service and that the appointment of a temporary manager is justified as defined in TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c).
3. TEX. WATER CODE § 13.4132 authorizes the Commission to appoint a willing person to temporarily manage and operate a utility if the utility has discontinued service or abandoned operations or the provision of services or has been or is being referred to the Attorney General for the appointment of a receiver under TEX. WATER CODE § 13.412.
4. TEX. WATER CODE § 5.507 provides that the Commission may issue an emergency order appointing a willing person to temporarily manage and operate a utility under TEX. WATER CODE § 13.4132.

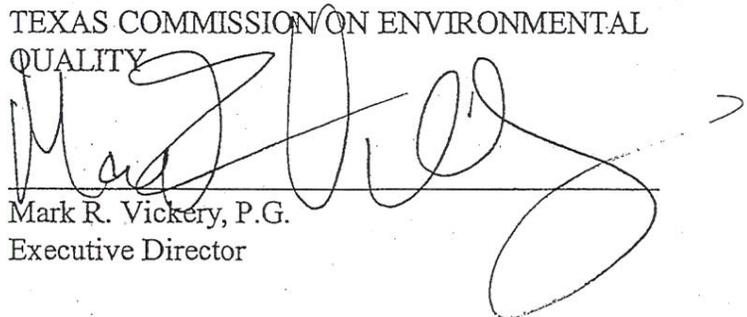
5. This Emergency Order may be issued without notice or hearing pursuant to TEX. WATER CODE § 5.501(b) and 30 TEX. ADMIN. CODE § 35.25.
6. TEX. WATER CODE § 5.501(c) and 30 TEX. ADMIN CODE §§ 35.12 and 291.143(a) authorize the TCEQ Executive Director to issue this Emergency Order.
7. TEX. WATER CODE §§ 5.501 and 5.507 and 30 TEX. ADMIN. CODE § 291.143(a) authorize the Executive Director to appoint a person to temporarily manage and operate a utility that has discontinued or abandoned operations or which is being referred to the office of the Attorney General for the appointment of the receiver.
8. TEX. WATER CODE § 13.4132 provides to the temporary manager the powers and duties necessary to ensure continued operation of the utility and the provision of continuous and adequate services to customers including the power and duty to read meters, bill for services, collect revenues, disburse funds, access all system components, and request rate increases.
9. Notice of the emergency order, once it has been issued, is adequate if the notice is mailed or hand delivered to the last known address of the Thunderbird's registered agent and headquarters, in accordance with TEX. WATER CODE § 5.507. The last known address of Thunderbird's headquarters is set forth in Finding of Fact No. 5.

### III. ORDER

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. June 4, 2010.
2. Immediately upon the effective date of this Emergency Order, Mr. Fultz is hereby appointed to temporarily manage and operate the Utility.
3. Mr. Fultz shall serve as temporary manager of Thunderbird until such time as a receiver is appointed to operate the Utility by a court of proper jurisdiction, or 180 days after the effective date of this Order i.e. December 1, 2010, whichever occurs first.
4. Mr. Fultz is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.
5. Mr. Fultz shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.

6. Mr. Fultz 's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).
7. Mr. Fultz's compensation will come from Utility revenues in the amount of eight dollars (\$8.00) per month per connection.
8. Mr. Fultz shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).
9. Pursuant to TEX. WATER CODE § 5.504, the Commission will consider whether to affirm, modify or set aside this Order at its regular Agenda meeting on August 11, 2010 at 9:30 a.m., at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the August 11, 2010 Agenda meeting, Thunderbird may request an evidentiary hearing pursuant to 30 TEX. ADMIN. CODE § 35.25(c) for the purpose of presenting evidence and cross-examining witnesses regarding whether to affirm, modify, or set aside this Emergency Order. An Administrative Law Judge will be present at the Agenda to immediately hear the matter should a hearing be requested.**
10. The Chief Clerk shall provide a copy of this Order to each of the parties.

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY



Mark R. Vickery, P.G.  
Executive Director

Attachment A

AFFIDAVIT OF JENNELLE CRANE

STATE OF TEXAS            }  
  }  
COUNTY OF TAYLOR        }

BEFORE ME, the undersigned authority, on this day personally appeared Jennelle Crane a person whose identity is known to me. After I administered an oath to her, upon her oath, she said:

1. My name is Jennelle Crane, and I am an Environmental Investigator for the Abilene Regional office of the Texas Commission on Environmental Quality ("TCEQ"). I am over the age of twenty-one years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein, which are true and correct.
2. In my capacity as an Environmental Investigator for the TCEQ, I have authority to make this Affidavit. As part of my job responsibilities as an Environmental Investigator for the TCEQ, I conduct compliance and complaint investigations.
3. On May 31, 2010, I responded to complaints of water outages at the Thunderbird Bay Water Services, Inc (the "Utility").
4. On June 1, 2010, I responded to complaints of water outages at the Utility and arrived at the utility at approximately 2:25 p.m. I observed the polymer was not available and measured a turbidity reading of 20 Nephelometric Turbidity Units (NTU). I documented that the high service pumps were turned off over night to let the tanks at the Utility fill up. I observed that water was out in all areas of the Utility. The Brown County Emergency Management provided potable water, available at the Harbor Point Volunteer Fire Department.
5. On June 2, 2010, I returned to the Utility at approximately 8:35 am and observed that water was out in all areas of the Utility. I observed that polymer was not available and the Utility measured a turbidity reading from the bench top turbidity meter of 54.6 NTU. I also reviewed the raw water pumping data and found no readings from May 24, 2010 to May 29, 2010 and on June 1, 2010. I documented that the Utility had been without a second raw water pump since September 2009, leaving the Utility with one 7740 GPH pump. I also documented that the system's online turbidimeter was not working.
6. On June 3, 2010, I returned to the Utility at 10:30 a.m. and observed that the Utility had 8 feet of water in the ground storage tank, 18 feet of water in the Tamarack Mountain Standpipe, and 22 feet of water in the plant standpipe. I documented a turbidity reading of 57 NTU. At 12:30 p.m. I observed that the Utility had 1 foot of water in the ground storage tank at the plant site, 53 feet of water in the Tamarack Mountain Stand pipe, and 23 feet of water in the plant stand pipe. I observed that Thunderbird turned off the high service pumps to let

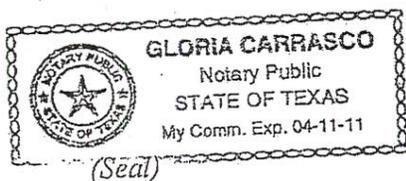
Affidavit of Jennelle Crane

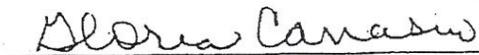
the ground storage tank build back up.

7. On June 4, 2010, I returned to the Utility at 10:30 a.m. and observed that the Utility had 9.5 feet of water in the ground storage tank at the plant site, 50 feet of water in the Tamarack Mountain Standpipe and 28 feet of water in the Standpipe at the plant site. I observed that the Utility could not provide water to the Thunderbird Bay Subdivision area.
8. From June 1, 2010 to June 4, 2010, I responded to complaints of water outages at the Utility. Some service areas of the Utility have been continuously out of water since May 31, 2010. Brown County provided bottled water and the Department of Public Safety's Department of Emergency Management provided non-potable water to the Utility during this time period.

  
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Jennelle Crane  
Environmental Investigator  
Abilene Regional Office  
Texas Commission on Environmental Quality

SUBSCRIBED AND SWORN TO before me on June 4, 2010, to  
certify which witness may hand and official seal.



  
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NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2010-0912-UCR-E TCEQ ID: RN102688371; RN102685773; CASE NO.: 2099**

**RESPONDENT NAME: THUNDERBIRD BAY WATER SERVICES, INC.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input checked="" type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITES WHERE VIOLATIONS OCCURRED:</b> Phantom Hill Circle, Lot 362, May, Brown County</p> <p><b>TYPE OF OPERATION:</b> Public water supply and retail public utility (Utility)</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> From May 30, 2010 to June 4, 2010, the Abilene Region Office received twenty-two complaints from twenty-five complainants regarding the water outage at the Utility. Approximately 50 phone calls from residences of Thunderbird Bay were also taken in the Abilene Region Office.</p> <p><b>INTERESTED PARTIES:</b> The complainants have not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> Pursuant to TEX. WATER CODE § 7.075, publication is not required for an Emergency Order.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney:</b> Peipey Tang, Litigation Division, MC 175, (512) 239-0654</p> <p><b>TCEQ Enforcement Coordinator:</b> Michael Meyer, Water Enforcement Section, MC 128, (512) 239-4492</p> <p><b>TCEQ Regional Contact:</b> Cliff Moore, Abilene Regional Office, MC R-3, (325) 698-6115</p> <p><b>Respondent:</b> Charles E. Schram, III, 5801 Brush Creek Trail, Dallas, Texas 75252</p> <p><b>Respondent's Attorney:</b> William Palmer, Attorney-at-Law, 25675 Overlook Parkway, Ste. 506, San Antonio, Texas 78260</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Dates of Complaints Relating to this Case:</b>                      May 30, 2010 through June 4, 2010</p> <p><b>Dates of Investigations Relating to this Case:</b>                      September 15, 2009 and May 31, 2010 through June 6, 2010</p> <p><b>Date of NOE Relating to this Case:</b>                      October 30, 2009</p> <p><b>Background Facts:</b>                      During a complaint inspection at the Utility conducted on September 15, 2009, a TCEQ Abilene Regional Office investigator documented that Thunderbird: 1) failed to monitor the Utility in accordance with TCEQ approved Disinfection Contact Time (CT) Analysis; 2) failed to apply for a formal exception from the TCEQ's Water Supply Division for a contact time study regarding switching disinfection methods (from Chlorine to Chloramine) to meet disinfection byproducts; 3) failed to maintain a chlorine residual of 0.2 milligrams per liter (mg/L) in the distribution system; 4) failed to maintain the 0.200 million gallon (MG) ground storage tank at the plant site in strict accordance with American Water Works Association (AWWA) standards; 5) failed to maintain the 0.038 MG standpipe at Tamarack Mountain in strict accordance with AWWA standards; 6) failed to provide the Utility with automatic shutdown or provide a Class "C" or higher operator at all times the Utility is running; 7) failed to obtain certification or calibration by the Hach Company that the online chlorine residual analyzer is in good working condition; 8) failed to maintain the 0.020 MG ground storage tank at pump station 1 in strict accordance with AWWA standards; 9) failed to maintain the 0.047 MG standpipe at the plant site in strict accordance with AWWA standards; 10) failed to provide a raw water intake that is not located within 1,000 feet of a boat launching ramp and failed to provide a 200 foot restricted access around the raw water intake; 11) failed to provide a raw water pump capacity of 0.6 gallons per minute (GPM) per connection with the largest pump out of service; 12) failed to provide a treatment plant capacity of 0.6 GPM per connection under normal rated design flow; 13) failed to provide a transfer pump capacity of 0.6 GPM per connection with the largest pump out of service; 14) failed to provide sanitary facilities at the Utility; 15) failed to provide water service to customers within the Utility's CCN; 16) failed to submit a quarterly operational report for the second quarter 2009; 17) failed to submit written certification within 5 days after obtaining compliance with each injunctive provision; 18) failed to test the backflow prevention devices at the</p>	<p>N/A</p>	<p><b>Ordering Provisions:</b></p> <ol style="list-style-type: none"> <li>1. Immediately upon the effective date of this Order, Mr. Fultz shall serve as temporary manager until 180 days after the effective date of the Emergency Order, i.e. December 1, 2010.</li> <li>2. Mr. Fultz is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.</li> <li>3. Mr. Fultz shall give the Executive Director an inventory of all property received for the Utility within sixty (60) days of the effective date of this Order.</li> <li>4. Mr. Fultz's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).</li> <li>5. Mr. Fultz's compensation will come from the Utility in the amount of eight dollars (\$8.00) per month per connection.</li> <li>6. Mr. Fultz shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).</li> </ol>

Harbor Point Community Center and the Tamarack Mountain Community Center in the past year; 19) failed to maintain a record of the amount of chemicals used each day; 20) failed to maintain an up-to-date chemical and microbiological monitoring plan; 21) failed to conduct annual tank inspections in the past year; 22) failed to maintain an up-to-date plant operations manual; 23) failed to flush dead-end mains and keep a flushing log; 24) failed to maintain a complaint log; 25) failed to label chemical feed lines; 26) failed to provide jar testing equipment for determining the optimum coagulant dose; 27) failed to provide adequate ventilation in the chlorine room; 28) failed to provide an overflow that reaches ground level or provide a location for inspection purposes at the 0.020 million gallon ground storage tank (MG GST); 29) failed to provide a 30-inch roof hatch at the 0.020 MG GST; 30) failed to provide a device that indicated the amount of chemical remaining in the facility or day tank; 31) failed to return the decant backwash water upstream of raw water sample tap and coagulant feed point; 32) failed to maintain the grounds of the water system; 33) failed to calibrate the bench-top turbidity meter once every 90 days with primary standards and re-standardize the secondary standards at that time; 34) failed to check the calibration of the manual disinfectant residual analyzer with standards that are not out-of-date; 35) failed to provide a thermometer that has a minimum accuracy of plus or minus 0.5 degrees Celsius; 36) failed to provide a functional standby unit for the disinfection equipment; 37) failed to maintain the distribution system in water-tight condition; 38) failed to provide a finished water meter.

From May 31, 2010 to June 4, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. Some service areas of the Utility have been continuously out of water since May 31, 2010. Brown County and the Department of Public Safety's Department of Emergency Management provided bottled water to the Utility from June 1, 2010 to June 4, 2010.

A potential health hazard exists as a result of the discontinuation of services at the Utility. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to assume operations of the Utility to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health & Safety Code, and is safe for public use and consumption.

On June 4, 2010, the Executive Director issued an Emergency Order appointing John M. Fultz ("Mr. Fultz") as the Temporary Manager of the Utility. The Executive Director is requesting approval of the Emergency Order appointing Mr. Fultz as the Temporary Manager for 180 days.

**UCR:**

Abandoned operations [TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c)].

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF  
AN ENFORCEMENT ACTION  
CONCERNING THUNDERBIRD BAY  
WATER SERVICES, INC.;  
RN102688371  
RN102685773**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**ORDER MODIFYING EMERGENCY ORDER  
DOCKET NO. 2010-0912-UCR-E**

On August 11, 2010, the Texas Commission on Environmental Quality (“TCEQ” or “Commission”) considered whether to affirm, modify, or set aside an Emergency Order in the matter regarding Thunderbird Bay Water Services, Inc. (“Thunderbird”). The Emergency Order was issued by the Executive Director without a hearing on June 4, 2010. The Emergency Order and the notice of the August 11, 2010 agenda hearing to affirm, modify, or set aside the Emergency Order were sent by certified mail return receipt requested, and sent by first class mail, postage prepaid to the last known addresses of Thunderbird on June 4, 2010 and June 9, 2010. The Emergency Order was also hand delivered to Thunderbird on June 5, 2010. The Commission finds that the Executive Director appropriately issued the Emergency Order and that the requirements for an emergency order found in Chapters 5 and 13 of the Texas Water Code have been satisfied.

**THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ORDERS THAT:**

The June 4, 2010 Emergency Order, attached hereto as Exhibit A and incorporated into this Order by reference, is affirmed with the following modifications:

1. Findings of Fact, Paragraph 1 shall delete the phrase “referred to as Thunderbird Bay Subdivision.”
2. Findings of Fact, Paragraph 7 shall be changed to replace “complaint” with “compliance and compliant.”
3. Findings of Fact, Paragraph 7.b. shall be changed to correct the citation from 30 TEX. ADMIN. CODE § 290.39(j) and (j)(i)(B) to 30 TEX. ADMIN. CODE § 290.39(j) and (j)(1)(B).
4. Findings of Fact, Paragraph 7.c. shall be changed to include “milligrams per liter.” The new paragraph shall read as follows, “Failed to maintain a chlorine residual of 0.2 milligrams per liter (mg/L) in the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(d).”
5. Findings of Fact, Paragraph 7.d. shall be changed to include “million gallon.” The new paragraph shall read as follows, “Failed to maintain the 0.200 million gallon (MG) ground

storage tank at the plant site in strict accordance with American Water Works Association (AWWA) standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8).”

6. Findings of Fact, Paragraph 7.g. shall be changed to replace “obtain certification” with “to obtain certification or calibration” and shall replace the citation TEX. WATER CODE § 7.101 with 30 TEX. ADMIN. CODE § 290.46(f)(3)(F). The new paragraph shall read as follows, “Failed to obtain certification or calibration by the Hach Company that the online chlorine residual analyzer is in good working condition, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(F).”
7. Findings of Fact, Paragraph 7.j. shall be changed to replace the word “tank” with “intake.”
8. Findings of Fact, Paragraph 7.p. shall be changed to replace the citation TEX. WATER CODE § 7.101 with 30 TEX. ADMIN. CODE § 290.46(f)(4).
9. Findings of Fact, Paragraph 7.q. shall be changed to replace the citation TEX. WATER CODE § 7.101 with 30 TEX. ADMIN. CODE § 290.46(f)(4).
10. Findings of Fact, Paragraph 7.r. shall be changed to correct the citation 30 TEX. ADMIN. CODE § 290.44(h)(4)(A)(i) to 30 TEX. ADMIN. CODE § 290.44(h)(4).
11. Findings of Fact, Paragraph 7.bb. shall be changed to include “million gallon ground storage tank.” The new paragraph shall read as follows, “Failed to provide an overflow that reaches ground level or provide a location for inspection purposes at the 0.020 million gallon ground storage tank (MG GST), in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3).”
12. Findings of Fact, Paragraph 7.ff. shall be changed to replace the word “ground” with “grounds.”
13. Findings of Fact, Paragraph 7.gg. shall be changed to correct the citation 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(ii) to 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(i).
14. Findings of Fact, Paragraph 7.jj. shall be changed to replace the word “disinfection unit” with “disinfection equipment.”
15. Findings of Fact, Paragraph 8 shall be changed to replace “4 p.m.” with “2 p.m.”; add the sentence, “The Utility was running but was unable to meet water production demands.”; and delete the sentences, “The Utility was non-operational. The Utility also lacked polymer. The Brown County Emergency Management provided potable water, available at the Harbor Point Volunteer Fire Department.” The new paragraph shall read as follows, “On May 31, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. The TCEQ investigators arrived at the Utility around 2 p.m. and were unable to locate the Utility operator. The Utility was running but was unable to meet water production

- demands. (*See* “Attachment A”)
16. Findings of Fact, Paragraph 9 shall be changed to replace “measured a” with “documented a”; correct the turbidity from 20 Nephelometric Turbidity Units (NTU) to 22 NTUs; and add the sentence, “The investigator noted that Brown County Emergency Management provided bottled water and the Volunteer Fire Department provided non-potable water.” The new paragraph shall read as follows, “On June 1, 2010, TCEQ Abilene Regional Office investigators documented that water was out for all service areas of the Utility. The TCEQ investigator observed that polymer was not available and documented a turbidity reading of 22 Nephelometric Turbidity Units (NTU) at the Utility. The TCEQ investigator documented that the high service pumps were turned off over night to let the tanks at the Utility fill up. The investigator noted that Brown County Emergency Management provided bottled water and the Volunteer Fire Department provided non-potable water. (*See* “Attachment A”)
  17. Findings of Fact, Paragraph 10 shall be changed to add “at 8:35 a.m.” and “checked by the investigator” to the first sentence; add “Utility” before “measured a turbidity” and delete “at the Utility” from the second sentence; replace “September” with “October” and add “gallons per hour” to the fourth sentence; and add the sentence, “The TCEQ investigator also documented that the online turbidimeter was not working. The investigator noted that Brown County Emergency Management provided bottled water, available at the Harbor Point Volunteer Fire Department.” The new paragraph shall read as follows, “On June 2, 2010, a TCEQ Abilene Regional Office investigator documented at 8:35 a.m. that water was out for all service areas of the Utility checked by the investigator. The TCEQ investigator documented that polymer was not available and the Utility measured a turbidity reading from the bench top turbidity meter of 54.6 NTU. The TCEQ investigator also reviewed the raw water pumping data and found no readings from May 24, 2010 to May 29, 2010 and on June 1, 2010. The TCEQ investigator also documented that the Utility had been without a second raw water pump since October 2009, leaving the Utility with one 7740 gallons per hour (GPH) pump. The TCEQ investigator also documented that the online turbidimeter was not working. The investigator noted that Brown County Emergency Management provided bottled water, available at the Harbor Point Volunteer Fire Department. (*See* “Attachment A”)
  18. Findings of Fact, Paragraph 11 shall be changed to add “that water was out for all service areas of the Utility checked by the investigator. The TCEQ investigator documented” to the first sentence; replace “Stand pipe” with “stand pipe” in the second sentence; and add a period to the end of the fourth sentence; and add the sentence, “The State Operations Center provided bottled water through Brown County Emergency Management.” The new paragraph shall read as follows, On June 3, 2010, a TCEQ Abilene Regional Office investigator documented at 10:30 a.m., that water was out for all service areas of the Utility checked by the investigator. The TCEQ investigator documented that the Utility had 8 feet of water in the ground storage tank, 18 feet of water in the Tamarack Mountain stand pipe, and 22 feet of water in the plant stand pipe. The TCEQ investigator documented a turbidity reading of 57

NTU. At 12:30 p.m. the TCEQ investigator documented that the Utility had 1 foot of water in the ground storage tank, 53 feet of water in the Tamarack Mountain stand pipe, and 23 feet of water in the plant stand pipe. The TCEQ investigator documented that Thunderbird turned off the high service pumps to let the ground storage tank build back up. The State Operations Center provided bottled water through Brown County Emergency Management. (*See* “Attachment A”)

19. Findings of Fact, Paragraph 12 shall be changed to add “at 10:30 a.m.” after “investigator observed” in the first sentence; replace “standpipe” with “stand pipe” in the second sentence; and replace “28 feet” with “23 feet” in the second sentence. The new paragraph shall read as follows, “On June 4, 2010, a TCEQ Abilene Regional Office investigator observed at 10:30 a.m. that the Utility could not provide water to the Thunderbird Bay Subdivision. The TCEQ investigator observed that the Utility had 9.5 feet of water in the ground storage tank at the plant site, 50 feet of water in the Tamarack Mountain stand pipe, and 23 feet of water in the stand pipe at the plant site. (*See* “Attachment A”)
20. Findings of Fact, Paragraph 13 shall be changed to replace “June 1, 2010” with “May 31, 2010” in the first sentence; replace the third sentence with “Brown County and the Department of Public Safety’s Department of Emergency Management provided bottled water to the customers of the Utility from June 1, 2010 to June 4, 2010.” The new paragraph shall read as follows, “From May 31, 2010 to June 4, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. Some service areas of the Utility have been continuously out of water since May 31, 2010. Brown County and the Department of Public Safety’s Department of Emergency Management provided bottled water to the customers of the Utility from June 1, 2010 to June 4, 2010. (*See* “Attachment A”)
21. Findings of Fact, Paragraph 15 shall update John M. Fultz’s phone number to (936) 825-7833.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**Exhibit A**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2010-0912-UCR-E

CHIEF CLERKS OFFICE

2010 JUN -4 PM 3:55

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF  
AN ENFORCEMENT ACTION AGAINST  
THUNDERBIRD BAY WATER  
SERVICES, INC.;  
RN102688371  
RN102685773

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

EMERGENCY ORDER  
APPOINTING A TEMPORARY MANAGER  
OF A WATER UTILITY

On June 4, 2010, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued this Emergency Order pursuant to TEX. WATER CODE chs. 5 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The party made subject to this order is Thunderbird Bay Water Services, Inc. ("Thunderbird").

I.  
FINDINGS OF FACT

1. Thunderbird owns and operates a public water system referred to as Thunderbird Bay Subdivision, located on Phantom Hill Circle, Lot 362, May, Brown County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 767 service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. As such, the Utility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. The Utility operates pursuant to Certificate of Convenience and Necessity No. 11243.
4. The TCEQ alleges that the Utility has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service. The TCEQ alleges that the Utility has failed to adequately maintain its facilities or to provide sufficient facilities resulting in potential health hazards, extended outages, or repeated service interruptions.

5. Commission records show that the mailing address for Thunderbird's registered agent, Charles E. Schram III, is 100 Oak Point Dr., May, Texas 76857. Commission records show that the mailing address for Thunderbird's headquarters, is P.O. Box 795399, Dallas, Texas 75379.
6. No other source of water is available to the more than 2301 people whose water is supplied by the Utility.
7. During a complaint inspection at the Utility conducted on September 15, 2009, a TCEQ Abilene Regional Office investigator documented and alleges that Thunderbird:
  - a. Failed to monitor the Utility in accordance with TCEQ approved Disinfection Contact Time (CT) Analysis, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(1)(B);
  - b. Failed to apply for a formal exception from the TCEQ's Water Supply Division for a contact time study regarding switching disinfection methods (from Chlorine to Chloramine) to meet disinfection byproducts, in violation of 30 TEX. ADMIN. CODE § 290.39(j) and (j)(i)(B);
  - c. Failed to maintain a chlorine residual of 0.2 mg/L in the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(d);
  - d. Failed to maintain the 0.200 MG ground storage tank at the plant site in strict accordance with American Water Works Association (AWWA) standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - e. Failed to maintain the 0.038 MG standpipe at Tamarack Mountain in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - f. Failed to provide the Utility with automatic shutdown or provide a Class "C" or higher operator at all times the Utility is running, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(6)(C);
  - g. Failed obtain certification by the Hach Company that the online chlorine residual analyzer is in good working condition, in violation of TEX. WATER CODE § 7.101;
  - h. Failed to maintain the 0.020 MG ground storage tank at pump station 1 in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - i. Failed to maintain the 0.047 MG standpipe at the plant site in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);

- j. Failed to provide a raw water intake that is not located within 1,000 feet of a boat launching ramp and failed to provide a 200 foot restricted access around the raw water tank, in violation of 30 TEX. ADMIN. CODE § 290.41(e)(2)(B) and (e)(2)(C);
- k. Failed to provide a raw water pump capacity of 0.6 gallons per minute (GPM) per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(A);
- l. Failed to provide a treatment plant capacity of 0.6 GPM per connection under normal rated design flow, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(B);
- m. Failed to provide a transfer pump capacity of 0.6 GPM per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(C);
- n. Failed to provide sanitary facilities at the Utility, in violation of 30 TEX. ADMIN. CODE § 290.42(h);
- o. Failed to provide water service to customers within the Utility's CCN, in violation of 30 TEX. ADMIN. CODE § 291.85(a), TEX. WATER CODE §§ 13.139(a) and 13.250(a);
- p. Failed to submit a quarterly operational report for the second quarter 2009, in violation of TEX. WATER CODE § 7.101;
- q. Failed to submit written certification within 5 days after obtaining compliance with each injunctive provision, in violation of TEX. WATER CODE § 7.101;
- r. Failed to test the backflow prevention devices at the Harbor Point Community Center and the Tamarack Mountain Community Center in the past year, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4)(A)(i);
- s. Failed to maintain a record of the amount of chemicals used each day, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(I);
- t. Failed to maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a);
- u. Failed to conduct annual tank inspections in the past year, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1);
- v. Failed to maintain an up-to-date plant operations manual, in violation of 30 TEX. ADMIN. CODE § 290.42(l);
- w. Failed to flush dead-end mains and keep a flushing log, in violation of 30 TEX.

ADMIN. CODE § 290.46(l) and (f)(3)(A)(iv);

- x. Failed to maintain a complaint log, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(iii);
- y. Failed to label chemical feed lines, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(13);
- z. Failed to provide jar testing equipment for determining the optimum coagulant dose, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(15)(C)(vi);
- aa. Failed to provide adequate ventilation in the chlorine room, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(C);
- bb. Failed to provide an overflow that reaches ground level or provide a location for inspection purposes at the 0.020 MG GST, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3);
- cc. Failed to provide a 30-inch roof hatch at the 0.020 MG GST, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2);
- dd. Failed to provide a device that indicated the amount of chemical remaining in the facility or day tank, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(C);
- ee. Failed to return the decant backwash water upstream of raw water sample tap and coagulant feed point, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(3)(A);
- ff. Failed to maintain the ground of the water system, in violation of 30 TEX. ADMIN. CODE § 290.46(m);
- gg. Failed to calibrate the bench-top turbidity meter once every 90 days with primary standards and re-standardize the secondary standards at that time, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(ii);
- hh. Failed to check the calibration of the manual disinfectant residual analyzer with standards that are not out-of-date, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(C)(i);
- ii. Failed to provide a thermometer that has a minimum accuracy of plus or minus 0.5 degrees Celsius, in violation of 30 TEX. ADMIN. CODE § 290.111(d)(4)(B);
- jj. Failed to provide a functional standby unit for the disinfection unit, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3)(C);

- kk. Failed to maintain the distribution system in water-tight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4); and
  - ll. Failed to provide a finished water meter, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(5).
8. On May 31, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. The TCEQ investigators arrived at the Utility around 4 p.m. and were unable to locate the Utility operator. The Utility was non-operational. The Utility also lacked polymer. The Brown County Emergency Management provided potable water, available at the Harbor Point Volunteer Fire Department. (See "Attachment A")
  9. On June 1, 2010, TCEQ Abilene Regional Office investigators documented that water was out for all service areas of the Utility. The TCEQ investigator observed that polymer was not available and measured a turbidity reading of 20 Nephelometric Turbidity Units (NTU) at the Utility. The TCEQ investigator documented that the high service pumps were turned off over night to let the tanks at the Utility fill up. (See "Attachment A")
  10. On June 2, 2010, a TCEQ Abilene Regional Office investigator documented that water was out for all service areas of the Utility. The TCEQ investigator documented that polymer was not available and the measured a turbidity reading from the bench top turbidity meter of 54.6 NTU at the Utility. The TCEQ investigator also reviewed the raw water pumping data and found no readings from May 24, 2010 to May 29, 2010 and on June 1, 2010. The TCEQ investigator also documented that the Utility had been without a second raw water pump since September 2009, leaving the Utility with one 7740 GPH pump. (See "Attachment A")
  11. On June 3, 2010, a TCEQ Abilene Regional Office investigator documented at 10:30 a.m., that the Utility had 8 feet of water in the ground storage tank, 18 feet of water in the Tamarack Mountain Stand pipe, and 22 feet of water in the plant stand pipe. The TCEQ investigator documented a turbidity reading of 57 NTU. At 12:30 p.m. the TCEQ investigator documented that the Utility had 1 foot of water in the ground storage tank, 53 feet of water in the Tamarack Mountain stand pipe, and 23 feet of water in the plant stand pipe. The TCEQ investigator documented that Thunderbird turned off the high service pumps to let the ground storage tank build back up. (See "Attachment A")
  12. On June 4, 2010, a TCEQ Abilene Regional Office investigator observed that the Utility could not provide water to the Thunderbird Bay Subdivision. The TCEQ investigator observed that the Utility had 9.5 feet of water in the ground storage tank at the plant site, 50 feet of water in the Tamarack Mountain standpipe, and 28 feet of water in the standpipe at the plant site. (See "Attachment A")
  13. From June 1, 2010 to June 4, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. Some service areas of the Utility have been continuously out of water since May 31, 2010. Brown County provided bottled water and the

Department of Public Safety's Department of Emergency provided non-potable water to the Utility during this time period. (See "Attachment A")

14. A potential health hazard exists as a result of the Utility's failure to provide continuous and adequate service. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to assume operations of the Utility to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health & Safety Code, and is safe for public use and consumption.
15. John M. Fultz ("Mr. Fultz") has agreed to serve as temporary manager of the Utility and his mailing address is P.O. Box 868, Navasota, Texas 77868. His telephone number is (936) 825-4570.
16. This Order is necessary to ensure that continuous and adequate water service is provided to the customers of the Utility to effectuate the purposes of the Texas Water Code and the Texas Health and Safety Code.
17. Because Thunderbird has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service, this matter has been referred to the Attorney General's Office so that a petition may be filed to appoint a receiver under TEX. WATER CODE § 13.412 to guarantee continuous and adequate service to customers of the Utility.

## II. CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1, 2, and 3, Thunderbird owns and operates the retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 4, 7, 8, 9, 10, 11, 12, and 13 show that the Utility has discontinued providing service and that the appointment of a temporary manager is justified as defined in TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c).
3. TEX. WATER CODE § 13.4132 authorizes the Commission to appoint a willing person to temporarily manage and operate a utility if the utility has discontinued service or abandoned operations or the provision of services or has been or is being referred to the Attorney General for the appointment of a receiver under TEX. WATER CODE § 13.412.
4. TEX. WATER CODE § 5.507 provides that the Commission may issue an emergency order appointing a willing person to temporarily manage and operate a utility under TEX. WATER CODE § 13.4132.

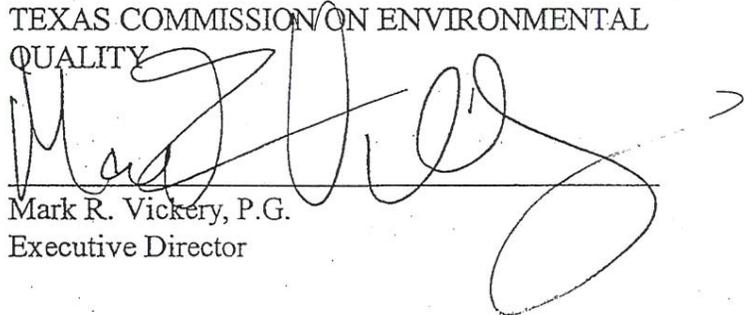
5. This Emergency Order may be issued without notice or hearing pursuant to TEX. WATER CODE § 5.501(b) and 30 TEX. ADMIN. CODE § 35.25.
6. TEX. WATER CODE § 5.501(c) and 30 TEX. ADMIN CODE §§ 35.12 and 291.143(a) authorize the TCEQ Executive Director to issue this Emergency Order.
7. TEX. WATER CODE §§ 5.501 and 5.507 and 30 TEX. ADMIN. CODE § 291.143(a) authorize the Executive Director to appoint a person to temporarily manage and operate a utility that has discontinued or abandoned operations or which is being referred to the office of the Attorney General for the appointment of the receiver.
8. TEX. WATER CODE § 13.4132 provides to the temporary manager the powers and duties necessary to ensure continued operation of the utility and the provision of continuous and adequate services to customers including the power and duty to read meters, bill for services, collect revenues, disburse funds, access all system components, and request rate increases.
9. Notice of the emergency order, once it has been issued, is adequate if the notice is mailed or hand delivered to the last known address of the Thunderbird's registered agent and headquarters, in accordance with TEX. WATER CODE § 5.507. The last known address of Thunderbird's headquarters is set forth in Finding of Fact No. 5.

### III. ORDER

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. June 4, 2010.
2. Immediately upon the effective date of this Emergency Order, Mr. Fultz is hereby appointed to temporarily manage and operate the Utility.
3. Mr. Fultz shall serve as temporary manager of Thunderbird until such time as a receiver is appointed to operate the Utility by a court of proper jurisdiction, or 180 days after the effective date of this Order i.e. December 1, 2010, whichever occurs first.
4. Mr. Fultz is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.
5. Mr. Fultz shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.

6. Mr. Fultz 's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).
7. Mr. Fultz's compensation will come from Utility revenues in the amount of eight dollars (\$8.00) per month per connection.
8. Mr. Fultz shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).
9. Pursuant to TEX. WATER CODE § 5.504, the Commission will consider whether to affirm, modify or set aside this Order at its regular Agenda meeting on August 11, 2010 at 9:30 a.m., at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the August 11, 2010 Agenda meeting, Thunderbird may request an evidentiary hearing pursuant to 30 TEX. ADMIN. CODE § 35.25(c) for the purpose of presenting evidence and cross-examining witnesses regarding whether to affirm, modify, or set aside this Emergency Order. An Administrative Law Judge will be present at the Agenda to immediately hear the matter should a hearing be requested.**
10. The Chief Clerk shall provide a copy of this Order to each of the parties.

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

  
\_\_\_\_\_  
Mark R. Vickery, P.G.  
Executive Director

Attachment A

**AFFIDAVIT OF JENNELLE CRANE**

STATE OF TEXAS            }  
  }  
COUNTY OF TAYLOR        }

BEFORE ME, the undersigned authority, on this day personally appeared Jennelle Crane a person whose identity is known to me. After I administered an oath to her, upon her oath, she said:

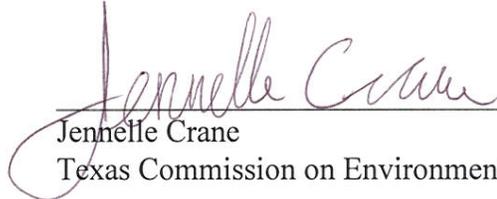
1. My name is Jennelle Crane, and I am an Environmental Investigator for the Abilene Regional office of the Texas Commission on Environmental Quality (“TCEQ”). I am over the age of twenty-one years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein, which are true and correct.
2. In my capacity as an Environmental Investigator for the TCEQ, I have authority to make this Affidavit. As part of my job responsibilities as an Environmental Investigator for the TCEQ, I conduct compliance and complaint investigations.
3. On May 31, 2010, I responded to complaints of water outages at the Thunderbird Bay Water Services, Inc (the “Utility”).
4. On June 1, 2010, I responded to complaints of water outages at the Utility and arrived at the utility at approximately 2:25 p.m. I observed the polymer was not available and measured a turbidity reading of 20 Nephelometric Turbidity Units (NTU). I documented that the high service pumps were turned off over night to let the tanks at the Utility fill up. I observed that water was out in all areas of the Utility. The Brown County Emergency Management provided potable water, available at the Harbor Point Volunteer Fire Department.
5. On June 2, 2010, I returned to the Utility at approximately 8:35 am and observed that water was out in all areas of the Utility. I observed that polymer was not available and the Utility measured a turbidity reading from the bench top turbidity meter of 54.6 NTU. I also reviewed the raw water pumping data and found no readings from May 24, 2010 to May 29, 2010 and on June 1, 2010. I documented that the Utility had been without a second raw water pump since September 2009, leaving the Utility with one 7740 GPH pump. I also documented that the system’s online turbidimeter was not working.
6. On June 3, 2010, I returned to the Utility at 10:30 a.m. and observed that the Utility had 8 feet of water in the ground storage tank, 18 feet of water in the Tamarack Mountain Standpipe, and 22 feet of water in the plant standpipe. I documented a turbidity reading of 57 NTU. At 12:30 p.m. I observed that the Utility had 1 foot of water in the ground storage tank at the plant site, 53 feet of water in the Tamarack Mountain Stand pipe, and 23 feet of water in the plant stand pipe. I observed that Thunderbird turned off the high service pumps to let

**AFFIDAVIT OF JENNELLE CRANE**

STATE OF TEXAS                   §  
   §  
COUNTY OF TAYLOR           §

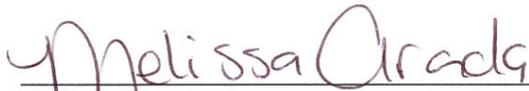
My name is Jennelle Crane. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On June 5, 2010, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I personally attempted to hand deliver to Charles E. Schram III, Registered Agent and Director of Thunderbird Bay Water Services, Inc., the Notice and Emergency Order set for the August 11, 2010 Commission Agenda. I left a copy of the Notice and Emergency Order at the door of 100 Oak Point Dr., May, Texas 76857.

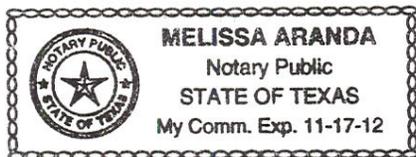
  
\_\_\_\_\_  
Jennelle Crane  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennelle Crane, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 15 day of July, A.D., 2010.

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

Notary Stamp



**AFFIDAVIT OF PEIPEY TANG**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

My name is Peipey Tang. 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 June 4, 2010, I, Peipey Tang on behalf of the Executive Director of the Texas Commission on Environmental Quality, sent via Certified Mail Return Receipt Requested (Article No. 7004 1350 0002 7565 9839), and via First Class Mail, postage prepaid to Charles E. Schram III, Thunderbird Bay Water Services, Inc., 100 Oak Point Dr., May, Texas, 76857, the June 4, 2010 Emergency Order and the Notice of Hearing to Modify, Affirm, or Set Aside the June 4, 2010 Emergency Order set for the August 11, 2010 Commission Agenda.

On June 4, 2010, I, Peipey Tang on behalf of the Executive Director of the Texas Commission on Environmental Quality, sent via Certified Mail Return Receipt Requested (Article No. 7004 1350 0002 7565 9822), and via First Class Mail, postage prepaid to Charles E. Schram III, Thunderbird Bay Water Services, Inc., P.O. Box 795399, Dallas, Texas 75379, the June 4, 2010 Emergency Order and the Notice of Hearing to Modify, Affirm, or Set Aside the June 4, 2010 Emergency Order set for the August 11, 2010 Commission Agenda.

Additionally, on June 9, 2009, I, Peipey Tang on behalf of the Executive Director of the Texas Commission on Environmental Quality, sent via Certified Mail Return Receipt Requested (Article No. 7009 1680 0002 2323 2933), and via First Class Mail, postage prepaid, to Charles E. Schram III, Thunderbird Bay Water Services, Inc., 5801 Brush Creek Trail, Dallas, Texas 75252, the June 4, 2010 Emergency Order and the Notice of Hearing to Modify, Affirm, or Set Aside the June 4, 2010 Emergency Order set for the August 11, 2010 Commission Agenda.

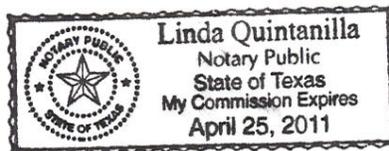
Peipey Tang  
Peipey Tang  
Attorney  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 16<sup>th</sup> day of July, A.D., 2010.

Linda Quintanilla  
Notary Signature

Notary Stamp



# Compliance History Report

Customer/Respondent/Owner-Operator: CN601363468 Thunderbird Bay Water Services, Inc. Classification: Rating:  
Regulated Entity: RN102688371 THUNDERBIRD BAY WATER Classification: Site Rating:  
SERVICE INC

ID Number(s): UTILITIES REGISTRATION 11243

Location:

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: July 14, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 08, 2005 to July 08, 2010

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

Name: Michael Meyer Phone: 239 - 4492

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## 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.)  
N/A

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

Date: 10/13/2009 (779827)

CN601363468

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 291, SubChapter B 291.21(a)

Description: 291.21(a) utility may not charge or collect any rate different from those prescribed in their approved tariff. Thunderbird Bay's approved tariff was effective 11/14/1996. The approved base rate for Thunderbird Point Subdivision PWS#0320013 in Camp County, Texas is \$14.00 including 2,000 gallons and \$1.25 per 1,000 gallons thereafter.  
291.25 Thunderbird Bay was not authorized to change its rates without submitting a rate application and gaining approval of the rate change from the Commission.

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

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601363468 Thunderbird Bay Water Services, Inc.	Classification:	Rating:
Regulated Entity:	RN102685773 THUNDERBIRD BAY SUBDIVISION	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0250031
	WATER LICENSING	LICENSE	0250031
Location:	PHANTOM HILL CIRCLE, LOT 362, Thunderbird Bay Subdivision, MAY, TX 76857		
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	July 08, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 08, 2005 to July 08, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Michael Meyer	Phone:	239 - 4492

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

### 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 Effective Date: 06/05/2009 COURTORDER

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failure to meet raw water pump capacity of .3 gpm per connection.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failure to meet transfer pump capacity of .3 gpm per connection.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
 Description: Failure to provide flow measuring devices to measure the recycled decant water and the filter backwash water.

Classification: Moderate  
 Citation: 2B TWC Chapter 13, SubChapter A 13.250(a)  
 30 TAC Chapter 291, SubChapter E 291.85(a)  
 Description: Failed to provide water to a customer within the respondents CCN.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
 Description: FAILURE TO PROVIDE TREATMENT PLANT CAPACITY OF 0.3 GPM PER CONNECTION UNDER NORMAL RATED DESIGN FLOW.

Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: FAILURE TO MAINTAIN THE EXTERIOR PAINTED SURFACES ON THE 0.200 MG GST.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
 Description: FAILURE TO PROVIDE MINIMUM RAW WATER CAPACITY of 0.6 REQUIREMENT.

Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
 Description: FAILURE TO PROVIDE TREATMENT PLANT CAPACITY OF 0.6 GPM PER CONNECTION.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)  
Description: FAILURE TO PROVIDE A MINIMUM TRANSFER PUMP CAPACITY OF 0.6 GPM PER CONNECTION.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)  
Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH 1720D TURBIDIMETER) EVERY 90 DAYS.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)  
Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH CL17 CHLORINE ANALYZER) EVERY 90 DAYS.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(B)  
Description: FAILURE TO PROPERLY LOCATE RAW WATER INTAKE STRUCTURE.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)(i)  
Description: FAILURE TO INSTALL AND TEST BACKFLOW PREVENTION DEVICES.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(c)(1)(B)  
Description: FAILURE TO ADEQUATELY REPORT MONTHLY OPERATIONAL REPORT IN ACCORDANCE WITH SYSTEM CT STUDY.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(h)  
Description: FAILURE TO PROVIDE SANITARY FACILITIES AT SURFACE WATER TREATMENT PLANT.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(b)(1)  
30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: VIOLATED THE MCL FOR TTHM IN THE 1ST, 2ND, AND 3RD QUARTER OF 2004

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(b)(2)  
30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THC Chapter 341, SubChapter A 341.0315(c)  
Description: VIOLATED THE MCL FOR HAA5 IN THE 1ST, 2ND, AND 3RD QUARTER OF 2004.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)  
Description: FAILURE TO PROVIDE ADEQUATE DISTRIBUTION SYSTEM PRESSURE.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: Failure to maintain the 0.038 MG standpipe at Tamarack Mountain in strict accordance with American Water Works Association (AWWA) standards.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(C)  
Description: FAILURE TO PROVIDE SURFACE PLANT WITH AUTO SHUT DOWN CAPABILITY.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: Failure to maintain the 0.020 ground storage tank at pump station 1 in strict accordance with American Water Works Association (AWWA) standards.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: Failure to maintain the 0.047 MG standpipe at the plant site in strict accordance with American Water Works Association (AWWA) standards.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
Description: Failure to provide a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L free chlorine or 0.5 mg/L chloramine. Thunderbird Bay was also noted for low chlorine residual during the comprehensive compliance investigation conducted on September 12, 2007, investigation number 596325, and tracking number 289855.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)

Description: Failure to employ any certified operators.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)

Description: TCR Routine Monitoring Violation 04/2008 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 04/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)

Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 05/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)

Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).  
Classification: Major  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
Rqmt Prov: Operating Practices PERMIT

Description: Failure to prevent the unauthorized discharge of filter backwash water.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to maintain the overflow at the 0.200 MG GST.  
Classification: Major  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to properly dispose of water treatment sludge at a TCEQ authorized site for disposal.  
Classification: Minor  
Citation: 30 TAC Chapter 291, SubChapter E 291.87(h)

Description: Failed to cease backbilling customers in excess of 12 months.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to calibrate flow measuring devices once every 12 months.  
Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failed to properly maintain sludge lagoons  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.39

Description: Submit signed and sealed engineering plans and specification to the TCEQ.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A	1	09/01/2005	(418429)
	2	04/06/2006	(456726)
	3	11/27/2006	(531713)
	4	05/18/2007	(652285)
	5	05/18/2007	(652286)
	6	08/10/2007	(652669)

7 09/28/2007 (652816)  
8 11/15/2007 (653033)  
9 11/15/2007 (653034)  
10 02/08/2008 (652099)  
11 02/08/2008 (652100)  
12 04/03/2008 (707219)  
13 04/03/2008 (707227)  
14 08/28/2008 (707226)  
15 08/28/2008 (707229)  
16 09/11/2008 (688472)  
17 11/03/2008 (707111)  
18 11/03/2008 (707143)  
19 11/03/2008 (707176)  
20 11/04/2008 (707068)  
21 11/04/2008 (707090)  
22 11/05/2008 (707287)  
23 11/05/2008 (707291)  
24 11/05/2008 (707297)  
25 11/05/2008 (707299)  
26 11/05/2008 (707300)  
27 12/05/2008 (784350)  
28 12/05/2008 (784352)  
29 03/10/2009 (784358)  
30 03/10/2009 (784369)  
31 05/26/2009 (784400)  
32 05/28/2009 (784386)  
33 08/21/2009 (784403)  
34 08/21/2009 (784405)  
35 10/23/2009 (784408)  
36 10/23/2009 (784414)  
37 11/24/2009 (783293)  
38 12/02/2009 (784328)  
39 12/04/2009 (784471)  
40 12/04/2009 (784480)  
41 12/04/2009 (784481)  
42 12/04/2009 (784484)  
43 12/04/2009 (784487)  
44 12/04/2009 (784491)  
45 12/04/2009 (784492)  
46 12/04/2009 (784494)  
47 12/04/2009 (784496)  
48 02/19/2010 (792306)  
49 02/26/2010 (793632)

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

N/A Date: 08/29/2005 (418429)CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
Description: FAILURE TO PROVIDE FLOW MEASURING DEVICES FOR THE FILTER  
BACKWASH AND RECYCLED DECANT WATER FACILITIES.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: FAILURE TO MAINTAIN THE EXTERIOR PAINTED SURFACES ON THE 0.200 MG  
GST.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
Description: FAILURE TO PROVIDE MINIMUM RAW WATER CAPACITY of 0.6 REQUIREMENT.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
Description: FAILURE TO PROVIDE TREATMENT PLANT CAPACITY OF 0.6 GPM PER CONNECTION.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)  
Description: FAILURE TO PROVIDE A MINIMUM TRANSFER PUMP CAPACITY OF 0.6 GPM PER CONNECTION.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: FAILURE TO CALIBRATE FLOW MEASURING DEVICES.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)  
Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH 1720D TURBIDIMETER) EVERY 90 DAYS.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)  
Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH CL17 CHLORINE ANALYZER) EVERY 90 DAYS.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)  
Description: FAILURE TO PROVIDE SPILL CONTAINMENT FACILITIES FOR BULK STORED CHEMICALS.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(B)  
Description: FAILURE TO PROPERLY LOCATE RAW WATER INTAKE STRUCTURE.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)(i)  
Description: FAILURE TO INSTALL AND TEST BACKFLOW PREVENTION DEVICES.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(c)(1)(B)  
Description: FAILURE TO ADEQUATELY REPORT MONTHLY OPERATIONAL REPORT IN ACCORDANCE WITH SYSTEM CT STUDY.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(h)  
Description: FAILURE TO PROVIDE SANITARY FACILITIES AT SURFACE WATER TREATMENT PLANT.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: FAILURE TO PROPERLY MAINTAIN SLUDGE LAGOONS.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)  
Description: FAILURE TO PROVIDE ADEQUATE DISTRIBUTION SYSTEM PRESSURE.

Date: 04/05/2006 (456726) CN601363468

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)  
Description: FAILURE TO PROVIDE FLOW MEASURING DEVICES FOR THE FILTER BACKWASH AND RECYCLED DECANT WATER FACILITIES.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
Description: FAILURE TO MAINTAIN THE EXTERIOR PAINTED SURFACES ON THE 0.200 MG GST.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
Description: FAILURE TO PROVIDE MINIMUM RAW WATER CAPACITY OF 0.6 REQUIREMENT.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
Description: FAILURE TO PROVIDE TREATMENT PLANT CAPACITY OF 0.6 GPM PER CONNECTION.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)  
Description: FAILURE TO PROVIDE A MINIMUM TRANSFER PUMP CAPACITY OF 0.6 GPM PER

CONNECTION.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: FAILURE TO CALIBRATE FLOW MEASURING DEVICES.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)  
Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH 1720D TURBIDIMETER) EVERY 90 DAYS.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)  
Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH CL17 CHLORINE ANALYZER) EVERY 90 DAYS.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)  
Description: FAILURE TO PROVIDE SPILL CONTAINMENT FACILITIES FOR BULK STORED CHEMICALS.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(B)  
Description: FAILURE TO PROPERLY LOCATE RAW WATER INTAKE STRUCTURE.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)(i)  
Description: FAILURE TO INSTALL AND TEST BACKFLOW PREVENTION DEVICES.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(c)(1)(B)  
Description: FAILURE TO ADEQUATELY REPORT MONTHLY OPERATIONAL REPORT IN ACCORDANCE WITH SYSTEM CT STUDY.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(h)  
Description: FAILURE TO PROVIDE SANITARY FACILITIES AT SURFACE WATER TREATMENT PLANT.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: FAILURE TO PROPERLY MAINTAIN SLUDGE LAGOONS.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)  
Description: FAILURE TO PROVIDE ADEQUATE DISTRIBUTION SYSTEM PRESSURE.

Date: 09/27/2006 (531713) CN601363468

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
Description: FAILURE TO PROVIDE MINIMUM RAW WATER CAPACITY OF 0.6 REQUIREMENT.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
Description: FAILURE TO PROVIDE TREATMENT PLANT CAPACITY OF 0.6 GPM PER CONNECTION.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)  
Description: FAILURE TO PROVIDE A MINIMUM TRANSFER PUMP CAPACITY OF 0.6 GPM PER CONNECTION.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(B)  
Description: FAILURE TO PROPERLY LOCATE RAW WATER INTAKE STRUCTURE.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)(i)  
Description: FAILURE TO INSTALL AND TEST BACKFLOW PREVENTION DEVICES.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.111(c)(1)(B)  
Description: FAILURE TO ADEQUATELY REPORT MONTHLY OPERATIONAL REPORT IN ACCORDANCE WITH SYSTEM CT STUDY.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(h)

Description: FAILURE TO PROVIDE SANITARY FACILITIES AT SURFACE WATER TREATMENT PLANT.

Self Report? NO Classification: Moderate

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

Description: FAILURE TO PROVIDE ADEQUATE DISTRIBUTION SYSTEM PRESSURE.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to maintain the 0.038 MG standpipe at Tamarack Mountain in strict accordance with American Water Works Association (AWWA) standards.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(C)

Description: FAILURE TO PROVIDE SURFACE PLANT WITH AUTO SHUT DOWN CAPABILITY.

Date: 05/18/2007 (652285) CN601363468

Self Report? NO Classification: Moderate

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

Description: TOTAL TRIHALOMETHANES

Date: 05/18/2007 (652286) CN601363468

Self Report? NO Classification: Moderate

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

Description: HAA5

Date: 08/10/2007 (652669) CN601363468

Self Report? NO Classification: Moderate

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

Description: TOTAL TRIHALOMETHANES

Date: 09/28/2007 (652816) CN601363468

Self Report? NO Classification: Moderate

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

Description: HAA5

Date: 10/01/2007 (596325) CN601363468

Self Report? NO Classification: Moderate

Citation: 2B TWC Chapter 13, SubChapter A 13.250(a)

30 TAC Chapter 291, SubChapter E 291.85(a)

Description: Failed to provide water to a customer within the respondents CCN.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)

Description: FAILURE TO PROVIDE MINIMUM RAW WATER CAPACITY OF 0.6 REQUIREMENT.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)

Description: FAILURE TO PROVIDE TREATMENT PLANT CAPACITY OF 0.6 GPM PER CONNECTION.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)

Description: FAILURE TO PROVIDE A MINIMUM TRANSFER PUMP CAPACITY OF 0.6 GPM PER CONNECTION.

Self Report? NO Classification: Minor

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

Description: FAILURE TO CALIBRATE FLOW MEASURING DEVICES.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)

Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH 1720D TURBIDIMETER) EVERY 90 DAYS.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)

30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)

Description: FAILURE TO CALIBRATE LABORATORY EQUIPMENT (HACH CL17 CHLORINE ANALYZER) EVERY 90 DAYS.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)  
 Description: FAILURE TO PROVIDE SPILL CONTAINMENT FACILITIES FOR BULK STORED CHEMICALS.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(B)  
 Description: FAILURE TO PROPERLY LOCATE RAW WATER INTAKE STRUCTURE.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)(A)(i)  
 Description: FAILURE TO INSTALL AND TEST BACKFLOW PREVENTION DEVICES.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(h)  
 Description: FAILURE TO PROVIDE SANITARY FACILITIES AT SURFACE WATER TREATMENT PLANT.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: FAILURE TO PROPERLY MAINTAIN SLUDGE LAGOONS.

Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(b)(1)  
 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: VIOLATED THE MCL FOR TTHM IN THE 1ST, 2ND, AND 3RD QUARTER OF 2004

Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(b)(2)  
 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
 5A THC Chapter 341, SubChapter A 341.0315(c)  
 Description: VIOLATED THE MCL FOR HAA5 IN THE 1ST, 2ND, AND 3RD QUARTER OF 2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)  
 Description: FAILURE TO PROVIDE ADEQUATE DISTRIBUTION SYSTEM PRESSURE.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to maintain the 0.038 MG standpipe at Tamarack Mountain in strict accordance with American Water Works Association (AWWA) standards.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)  
 Description: FAILURE TO CALIBRATE ONLINE CHLORINE ANALYZER EVERY 30 DAYS

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
 Description: FAILURE TO CALIBRATE FLOW MEASURING DEVICES ONCE EVERY 12 MONTHS.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to maintain the 0.020 ground storage tank at pump station 1 in strict accordance with American Water Works Association (AWWA) standards.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to maintain the 0.047 MG standpipe at the plant site in strict accordance with American Water Works Association (AWWA) standards.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)  
 Description: FAILURE TO EMPLOY LICENSED OPERATOR THAT HAS COMPLETED TRAINING REQUIREMENTS

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
 Description: FAILURE TO PROVIDE ADEQUATE DISINFECTION RESIDUAL IN THE DISTRIBUTION SYSTEM

Date: 11/15/2007 (653033) CN601363468

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
 Description: TOTAL TRIHALOMETHANES

Date: 11/15/2007 (653034) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: HAA5

Date: 02/08/2008 (652099) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: TOTAL TRIHALOMETHANES

Date: 02/08/2008 (652100) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: HAA5

Date: 04/03/2008 (707219) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the first  
  
quarter of 2008.

Date: 04/03/2008 (707227) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: Violated the maximum contaminant level for haloacetic acids during the first  
quarter of 2008.

Date: 05/22/2008 (707111) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)  
Description: TCR Routine Monitoring Violation 04/2008 - Failure to collect any routine  
monitoring sample(s).  
  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 04/2008 - Failure to post public notice for not  
collecting any routine monitoring sample(s).

Date: 06/02/2008 (707090) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: April 2008 - Failure to submit surface water monthly operating report by the tenth  
day of the month following the end of the reporting period.

Date: 06/27/2008 (707143) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)  
Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine  
monitoring sample(s).  
  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 05/2008 - Failure to post public notice for not  
collecting any routine monitoring sample(s).

Date: 07/17/2008 (707287) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)

30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: May 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 07/31/2008 (707176) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)  
Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).

Date: 08/04/2008 (707291) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: June 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 08/28/2008 (707229) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2008.

Date: 08/28/2008 (707226) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

Date: 09/04/2008 (707297) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: July 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 10/15/2008 (707299) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: August 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 10/31/2008 (707068) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: March 2008 - Failure to submit surface water monthly operating report by the

tenth day of the month following the end of the reporting period.

Date: 11/03/2008 (707300) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: September 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following end of the reporting period.

Date: 11/13/2008 (704656) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
PWS ID 0250031 PERMIT  
Description: Failure to properly maintain filter backwash lagoons.

Date: 12/05/2008 (784350) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2008.

Date: 12/05/2008 (784352) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.

Date: 01/07/2009 (784471) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: October 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 01/20/2009 (784480) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: November 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 03/10/2009 (784369) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2008.

Date: 03/10/2009 (784358) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2008.

Date: 04/21/2009 (784481) CN601363468

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: December 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 04/24/2009 (784369) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)  
Description: The system failed to submit a Public Notice to its customers and/or failed to certify the delivery of a Public Notice to the TCEQ for a violation of the maximum contaminant level of trihalomethanes during the fourth quarter of 2008.

Date: 04/24/2009 (784358) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)  
Description: The system failed to submit a Public Notice to its customers and/or failed to certify the delivery of a Public Notice to the TCEQ for a violation of the maximum contaminant level of haloacetic acids during the fourth quarter of 2008.

Date: 05/13/2009 (784484) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: January 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 05/26/2009 (784400) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2009.

Date: 05/28/2009 (784386) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2009.

Date: 07/14/2009 (784386) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)  
Description: The system failed to submit a Public Notice to its customers and/or failed to certify the delivery of a Public Notice to the TCEQ for a violation of the maximum contaminant level of haloacetic acids during the first quarter of 2009.

Date: 07/14/2009 (784400) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)  
Description: The system failed to submit a Public Notice to its customers and/or failed to certify the delivery of a Public Notice to the TCEQ for a violation of the maximum contaminant level of trihalomethanes during the first quarter of 2009.

Date: 08/03/2009 (784494) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: May 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 08/03/2009 (784492) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: April 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 08/03/2009 (784491) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: March 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 08/03/2009 (784487) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: February 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

Date: 08/21/2009 (784403) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2009.

Date: 08/21/2009 (784405) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2009.

Date: 09/16/2009 (784328) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)  
Description: TCR Repeat Monitoring Violation 07/2009 - Failure to collect any repeats 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 07/2009 - Failure to post public notice for not collecting any repeats following a coliform found result.

Date: 09/17/2009 (784496) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(3)  
Description: June 2009 - Failure to submit surface water monthly operating report by the tenth

day of the month following the end of the reporting period.

Date: 10/23/2009 (784408) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
Description: Violated the maximum contaminant level for haloacetic acids during the third quarter of 2009.

Date: 10/23/2009 (784414) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2009.

Date: 10/29/2009 (784403) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)  
Description: The system failed to submit a Public Notice to its customers and/or failed to certify the delivery of a Public Notice to the TCEQ for a violation of the maximum contaminant level of haloacetic acids during the second quarter of 2009.

Date: 10/29/2009 (784405) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)  
Description: The system failed to submit a Public Notice to its customers and/or failed to certify the delivery of a Public Notice to the TCEQ for a violation of the maximum contaminant level of trihalomethanes during the second quarter of 2009.

Date: 11/30/2009 (782479) CN601363468  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to maintain the distribution system in water tight condition.

- 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



TCEQ DOCKET NO. 2010-0912-UCR-E

IN THE MATTER OF	§	BEFORE THE
AN ENFORCEMENT ACTION AGAINST	§	
THUNDERBIRD BAY WATER	§	TEXAS COMMISSION ON
SERVICES, INC.;	§	
RN102688371	§	ENVIRONMENTAL QUALITY
RN102685773	§	

**EMERGENCY ORDER  
APPOINTING A TEMPORARY MANAGER  
OF A WATER UTILITY**

On June 4, 2010, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued this Emergency Order pursuant to TEX. WATER CODE chs. 5 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The party made subject to this order is Thunderbird Bay Water Services, Inc. ("Thunderbird").

**I.  
FINDINGS OF FACT**

1. Thunderbird owns and operates a public water system ~~referred to as Thunderbird Bay Subdivision~~, located on Phantom Hill Circle, Lot 362, May, Brown County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 767 service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. As such, the Utility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. The Utility operates pursuant to Certificate of Convenience and Necessity No. 11243.
4. The TCEQ alleges that the Utility has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service. The TCEQ alleges that the Utility has failed to adequately maintain its facilities or to provide sufficient facilities resulting in potential health hazards, extended outages, or repeated service interruptions.

5. Commission records show that the mailing address for Thunderbird's registered agent, Charles E. Schram III, is 100 Oak Point Dr., May, Texas 76857. Commission records show that the mailing address for Thunderbird's headquarters, is P.O. Box 795399, Dallas, Texas 75379.
6. No other source of water is available to the more than 2301 people whose water is supplied by the Utility.
7. During a [compliance and](#) complaint inspection at the Utility conducted on September 15, 2009, a TCEQ Abilene Regional Office investigator documented and alleges that Thunderbird:
  - a. Failed to monitor the Utility in accordance with TCEQ approved Disinfection Contact Time (CT) Analysis, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(1)(B);
  - b. Failed to apply for a formal exception from the TCEQ's Water Supply Division for a contact time study regarding switching disinfection methods (from Chlorine to Chloramine) to meet disinfection byproducts, in violation of 30 TEX. ADMIN. CODE § 290.39(j) and (j)(~~1~~)(B);
  - c. Failed to maintain a chlorine residual of 0.2 [milligrams per liter \(mg/L\)](#) in the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(d);
  - d. Failed to maintain the 0.200 [million gallon \(MG\)](#) ground storage tank at the plant site in strict accordance with American Water Works Association (AWWA) standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - e. Failed to maintain the 0.038 MG standpipe at Tamarack Mountain in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
  - f. Failed to provide the Utility with automatic shutdown or provide a Class "C" or higher operator at all times the Utility is running, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(6)(C);
  - g. Failed [to](#) obtain certification [or calibration](#) by the Hach Company that the online chlorine residual analyzer is in good working condition, in violation of [30 TEX. ADMIN. CODE § 290.46\(f\)\(3\)\(F\)](#); ~~TEX. WATER CODE § 7.101~~;
  - h. Failed to maintain the 0.020 MG ground storage tank at pump station 1 in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);

- i. Failed to maintain the 0.047 MG standpipe at the plant site in strict accordance with AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8);
- j. Failed to provide a raw water intake that is not located within 1,000 feet of a boat launching ramp and failed to provide a 200 foot restricted access around the raw water tankintake, in violation of 30 TEX. ADMIN. CODE § 290.41(e)(2)(B) and (e)(2)(C);
- k. Failed to provide a raw water pump capacity of 0.6 gallons per minute (GPM) per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(A);
- l. Failed to provide a treatment plant capacity of 0.6 GPM per connection under normal rated design flow, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(B);
- m. Failed to provide a transfer pump capacity of 0.6 GPM per connection with the largest pump out of service, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(2)(C);
- n. Failed to provide sanitary facilities at the Utility, in violation of 30 TEX. ADMIN. CODE § 290.42(h);
- o. Failed to provide water service to customers within the Utility's CCN, in violation of 30 TEX. ADMIN. CODE § 291.85(a), TEX. WATER CODE §§ 13.139(a) and 13.250(a);
- p. Failed to submit a quarterly operational report for the second quarter 2009, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(4);~~TEX. WATER CODE § 7.101;~~
- q. Failed to submit written certification within 5 days after obtaining compliance with each injunctive provision, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(4);~~TEX. WATER CODE § 7.101;~~
- r. Failed to test the backflow prevention devices at the Harbor Point Community Center and the Tamarack Mountain Community Center in the past year, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4)(~~A~~)(i);
- s. Failed to maintain a record of the amount of chemicals used each day, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(I);
- t. Failed to maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a);
- u. Failed to conduct annual tank inspections in the past year, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1);

- v. Failed to maintain an up-to-date plant operations manual, in violation of 30 TEX. ADMIN. CODE § 290.42(l);
- w. Failed to flush dead-end mains and keep a flushing log, in violation of 30 TEX. ADMIN. CODE § 290.46(l) and (f)(3)(A)(iv);
- x. Failed to maintain a complaint log, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(iii);
- y. Failed to label chemical feed lines, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(13);
- z. Failed to provide jar testing equipment for determining the optimum coagulant dose, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(15)(C)(vi);
- aa. Failed to provide adequate ventilation in the chlorine room, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(C);
- bb. Failed to provide an overflow that reaches ground level or provide a location for inspection purposes at the 0.020 [million gallon ground storage tank \(MG GST\)](#), in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3);
- cc. Failed to provide a 30-inch roof hatch at the 0.020 MG GST, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2);
- dd. Failed to provide a device that indicated the amount of chemical remaining in the facility or day tank, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(C);
- ee. Failed to return the decant backwash water upstream of raw water sample tap and coagulant feed point, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(3)(A);
- ff. Failed to maintain the grounds of the water system, in violation of 30 TEX. ADMIN. CODE § 290.46(m);
- gg. Failed to calibrate the bench-top turbidity meter once every 90 days with primary standards and re-standardize the secondary standards at that time, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(ii);
- hh. Failed to check the calibration of the manual disinfectant residual analyzer with standards that are not out-of-date, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(C)(i);
- ii. Failed to provide a thermometer that has a minimum accuracy of plus or minus 0.5 degrees Celsius, in violation of 30 TEX. ADMIN. CODE § 290.111(d)(4)(B);

- jj. Failed to provide a functional standby unit for the disinfection ~~unit~~ equipment, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3)(C);
  - kk. Failed to maintain the distribution system in water-tight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4); and
  - ll. Failed to provide a finished water meter, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(5).
8. On May 31, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. The TCEQ investigators arrived at the Utility around 4:2 p.m. and were unable to locate the Utility operator. The Utility was running but was unable to meet water production demands. The Utility was non-operational. The Utility also lacked polymer. The Brown County Emergency Management provided potable water, available at the Harbor Point Volunteer Fire Department. (See "Attachment A")
9. On June 1, 2010, TCEQ Abilene Regional Office investigators documented that water was out for all service areas of the Utility. The TCEQ investigator observed that polymer was not available and measured a documented a turbidity reading of 20-22 Nephelometric Turbidity Units (NTU) at the Utility. The TCEQ investigator documented that the high service pumps were turned off over night to let the tanks at the Utility fill up. The investigator noted that Brown County Emergency Management provided bottled water and the Volunteer Fire Department provided non-potable water. (See "Attachment A")
10. On June 2, 2010, a TCEQ Abilene Regional Office investigator documented at 8:35 a.m. that water was out for all service areas of the Utility checked by the investigator. The TCEQ investigator documented that polymer was not available and the Utility measured a turbidity reading from the bench top turbidity meter of 54.6 NTU at the Utility. The TCEQ investigator also reviewed the raw water pumping data and found no readings from May 24, 2010 to May 29, 2010 and on June 1, 2010. The TCEQ investigator also documented that the Utility had been without a second raw water pump since September-October 2009, leaving the Utility with one 7740 gallons per hour (GPH) pump. The TCEQ investigator also documented that the online turbidimeter was not working. The investigator noted that Brown County Emergency Management provided bottled water, available at the Harbor Point Volunteer Fire Department. (See "Attachment A")
11. On June 3, 2010, a TCEQ Abilene Regional Office investigator documented at 10:30 a.m., that water was out for all service areas of the Utility checked by the investigator. The TCEQ investigator documented that the Utility had 8 feet of water in the ground storage tank, 18 feet of water in the Tamarack Mountain sStand pipe, and 22 feet of water in the plant stand pipe. The TCEQ investigator documented a turbidity reading of 57 NTU. At 12:30 p.m. the TCEQ investigator documented that the Utility had 1 foot of water in the ground storage tank, 53 feet of water in the Tamarack Mountain stand pipe, and 23 feet of water in the plant

- stand pipe. The TCEQ investigator documented that Thunderbird turned off the high service pumps to let the ground storage tank build back up. The State Operations Center provided bottled water through Brown County Emergency Management. (See "Attachment A")
12. On June 4, 2010, a TCEQ Abilene Regional Office investigator observed at 10:30 a.m. that the Utility could not provide water to the Thunderbird Bay Subdivision. The TCEQ investigator observed that the Utility had 9.5 feet of water in the ground storage tank at the plant site, 50 feet of water in the Tamarack Mountain stand pipe, and 283 feet of water in the stand pipe at the plant site. (See "Attachment A")
  13. From ~~June 4~~ May 31, 2010, ~~2010~~ to June 4, 2010, TCEQ Abilene Regional Office investigators responded to complaints of water outages at the Utility. Some service areas of the Utility have been continuously out of water since May 31, 2010. Brown County and the Department of Public Safety's Department of Emergency Management provided ~~bottled water and the Department of Public Safety's Department of Emergency provided non-potable bottled~~ water to the customers of the Utility during this time period from June 1, 2010 to June 4, 2010. (See "Attachment A")
  14. A potential health hazard exists as a result of the Utility's failure to provide continuous and adequate service. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to assume operations of the Utility to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health & Safety Code, and is safe for public use and consumption.
  15. John M. Fultz ("Mr. Fultz") has agreed to serve as temporary manager of the Utility and his mailing address is P.O. Box 868, Navasota, Texas 77868. His telephone number is (936) 825825-45707833.
  16. This Order is necessary to ensure that continuous and adequate water service is provided to the customers of the Utility to effectuate the purposes of the Texas Water Code and the Texas Health and Safety Code.
  17. Because Thunderbird has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service, this matter has been referred to the Attorney General's Office so that a petition may be filed to appoint a receiver under TEX. WATER CODE § 13.412 to guarantee continuous and adequate service to customers of the Utility.

## II. CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1, 2, and 3, Thunderbird owns and operates the retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 4, 7, 8, 9, 10, 11, 12, and 13 show that the Utility has discontinued providing service and that the appointment of a temporary manager is justified as defined in TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c).
3. TEX. WATER CODE § 13.4132 authorizes the Commission to appoint a willing person to temporarily manage and operate a utility if the utility has discontinued service or abandoned operations or the provision of services or has been or is being referred to the Attorney General for the appointment of a receiver under TEX. WATER CODE § 13.412.
4. TEX. WATER CODE § 5.507 provides that the Commission may issue an emergency order appointing a willing person to temporarily manage and operate a utility under TEX. WATER CODE § 13.4132.
5. This Emergency Order may be issued without notice or hearing pursuant to TEX. WATER CODE § 5.501(b) and 30 TEX. ADMIN. CODE § 35.25.
6. TEX. WATER CODE § 5.501(c) and 30 TEX. ADMIN CODE §§ 35.12 and 291.143(a) authorize the TCEQ Executive Director to issue this Emergency Order.
7. TEX. WATER CODE §§ 5.501 and 5.507 and 30 TEX. ADMIN. CODE § 291.143(a) authorize the Executive Director to appoint a person to temporarily manage and operate a utility that has discontinued or abandoned operations or which is being referred to the office of the Attorney General for the appointment of the receiver.
8. TEX. WATER CODE § 13.4132 provides to the temporary manager the powers and duties necessary to ensure continued operation of the utility and the provision of continuous and adequate services to customers including the power and duty to read meters, bill for services, collect revenues, disburse funds, access all system components, and request rate increases.
9. Notice of the emergency order, once it has been issued, is adequate if the notice is mailed or hand delivered to the last known address of the Thunderbird's registered agent and headquarters, in accordance with TEX. WATER CODE § 5.507. The last known address of Thunderbird's headquarters is set forth in Finding of Fact No. 5.

### III. ORDER

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. June 4, 2010.
2. Immediately upon the effective date of this Emergency Order, Mr. Fultz is hereby appointed to temporarily manage and operate the Utility.
3. Mr. Fultz shall serve as temporary manager of Thunderbird until such time as a receiver is appointed to operate the Utility by a court of proper jurisdiction, or 180 days after the effective date of this Order i.e. December 1, 2010, whichever occurs first.
4. Mr. Fultz is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.
5. Mr. Fultz shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.
6. Mr. Fultz 's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).
7. Mr. Fultz's compensation will come from Utility revenues in the amount of eight dollars (\$8.00) per month per connection.
8. Mr. Fultz shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).
9. Pursuant to TEX. WATER CODE § 5.504, the Commission will consider whether to affirm, modify or set aside this Order at its regular Agenda meeting on August 11, 2010 at 9:30 a.m., at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the August 11, 2010 Agenda meeting, Thunderbird may request an evidentiary hearing pursuant to 30 TEX. ADMIN. CODE § 35.25(c) for the purpose of presenting evidence and cross-examining witnesses regarding whether to affirm, modify, or set aside this Emergency Order. An Administrative Law Judge will be present at the Agenda to immediately hear the matter should a hearing be requested.**
10. The Chief Clerk shall provide a copy of this Order to each of the parties.

TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY

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Mark R. Vickery, P.G.  
Executive Director

Attachment A

AFFIDAVIT OF JENNELLE CRANE

STATE OF TEXAS            }  
  }  
COUNTY OF TAYLOR        }

BEFORE ME, the undersigned authority, on this day personally appeared Jennelle Crane a person whose identity is known to me. After I administered an oath to her, upon her oath, she said:

1. My name is Jennelle Crane, and I am an Environmental Investigator for the Abilene Regional office of the Texas Commission on Environmental Quality ("TCEQ"). I am over the age of twenty-one years and of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein, which are true and correct.
2. In my capacity as an Environmental Investigator for the TCEQ, I have authority to make this Affidavit. As part of my job responsibilities as an Environmental Investigator for the TCEQ, I conduct compliance and complaint investigations.
3. On May 31, 2010, I responded to complaints of water outages at the Thunderbird Bay Water Services, Inc (the "Utility").
4. On June 1, 2010, I responded to complaints of water outages at the Utility and arrived at the utility at approximately 2:25 p.m. I observed the polymer was not available and measured a turbidity reading of 20 Nephelometric Turbidity Units (NTU). I documented that the high service pumps were turned off over night to let the tanks at the Utility fill up. I observed that water was out in all areas of the Utility. The Brown County Emergency Management provided potable water, available at the Harbor Point Volunteer Fire Department.
5. On June 2, 2010, I returned to the Utility at approximately 8:35 am and observed that water was out in all areas of the Utility. I observed that polymer was not available and the Utility measured a turbidity reading from the bench top turbidity meter of 54.6 NTU. I also reviewed the raw water pumping data and found no readings from May 24, 2010 to May 29, 2010 and on June 1, 2010. I documented that the Utility had been without a second raw water pump since September 2009, leaving the Utility with one 7740 GPH pump. I also documented that the system's online turbidimeter was not working.
6. On June 3, 2010, I returned to the Utility at 10:30 a.m. and observed that the Utility had 8 feet of water in the ground storage tank, 18 feet of water in the Tamarack Mountain Standpipe, and 22 feet of water in the plant standpipe. I documented a turbidity reading of 57 NTU. At 12:30 p.m. I observed that the Utility had 1 foot of water in the ground storage tank at the plant site, 53 feet of water in the Tamarack Mountain Stand pipe, and 23 feet of water in the plant stand pipe. I observed that Thunderbird turned off the high service pumps to let

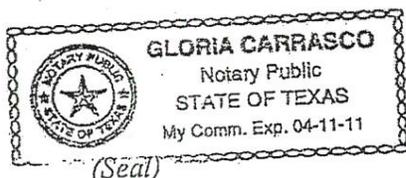
Affidavit of Jennelle Crane

the ground storage tank build back up.

7. On June 4, 2010, I returned to the Utility at 10:30 a.m. and observed that the Utility had 9.5 feet of water in the ground storage tank at the plant site, 50 feet of water in the Tamarack Mountain Standpipe and 28 feet of water in the Standpipe at the plant site. I observed that the Utility could not provide water to the Thunderbird Bay Subdivision area.
8. From June 1, 2010 to June 4, 2010, I responded to complaints of water outages at the Utility. Some service areas of the Utility have been continuously out of water since May 31, 2010. Brown County provided bottled water and the Department of Public Safety's Department of Emergency Management provided non-potable water to the Utility during this time period.

Jennelle Crane  
Jennelle Crane  
Environmental Investigator  
Abilene Regional Office  
Texas Commission on Environmental Quality

SUBSCRIBED AND SWORN TO before me on June 4, 2010, to certify which witness may hand and official seal.



Gloria Carrasco  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS