

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-0109-PWS-E TCEQ ID RN101256386 CASE NO. 37026
RESPONDENT NAME: UNITED STATES DEPARTMENT OF THE AIR FORCE

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

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

SITE WHERE VIOLATION(S) OCCURRED: 14657 Sneider Street, Houston, Harris County

TYPE OF OPERATION: public water supply

SMALL BUSINESS: N/A

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired May 10, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

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

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

Respondent: Sgt. Daniel Lagunas, Environmental Manager, Texas Department of the Adjutant General, 14657 Sneider Street, Building 1258, Houston, Texas 77034

Respondent's Attorney: Capt. Charles J. Gartland, Deputy Regional Environmental Counsel, Central Region, United States Department of the Air Force, 525 South Griffin Street, Suite 503, Dallas, Texas 75202

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 1, 2008</p> <p>Date of NOE Relating to this Case: December 19, 2008</p> <p>Background Facts: The EDPRP was filed on June 11, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on March 17, 2010.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to collect routine coliform samples for the months of August through December 2007, and failed to provide public notification of the failure to sample for August 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i), 290.109(d), and 290.122(c)(2)(B); and TEX. HEALTH & SAFETY CODE § 341.033(d)]. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine coliform sample collected during the month of February 2008 [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)]. 	<p>Total Assessed: \$990</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$0/\$990</p> <p>Respondent is required to pay the assessed administrative fee within 45 days of the effective date of this Order. Under the terms of this Order, payment of the assessed administrative fee shall not constitute a waiver of federal sovereign immunity for civil penalties under the Safe Drinking Water Act and shall not constitute an admission by Respondent that such a waiver exists.</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: More than three repeated enforcement actions for the same violation within the previous 5-year period.</p>	<p>Corrective Actions Taken: The Executive Director recognizes that as of March 17, 2010, Respondent has complied with the coliform monitoring requirements and provided water that meets the provisions regarding microbial contaminants since August 1, 2008.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Jan-2009			
	PCW	6-Jan-2009	Screening	6-Jan-2009	EPA Due 1-Jun-2008

RESPONDENT/FACILITY INFORMATION					
Respondent	United States Department of the Air Force				
Reg. Ent. Ref. No.	RN101256386				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37026	No. of Violations	2		
Docket No.	2009-0109-PWS-E	Order Type	Findings		
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodur		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$ Limit	Minimum	\$50	Maximum	\$1,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	32.0% Enhancement	Subtotals 2, 3, & 7	\$240
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Notes: Enhancement due to six Notices of Violation ("NOV") with same or similar violations as those in the current enforcement action and one dissimilar NOV.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$8
 Approx. Cost of Compliance \$100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$990
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$990
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$990
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$990
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Screening Date 6-Jan-2009

Docket No. 2009-0109-PWS-E

PCW

Respondent United States Department of the Air Force

Policy Revision 2 (September 2002)

Case ID No. 37026

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101256386

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 32%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement due to six Notices of Violation ("NOV") with same or similar violaitons as those in the current enforcement action and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 32%

Screening Date 6-Jan-2009 **Docket No.** 2009-0109-PWS-E **PCW**
Respondent United States Department of the Air Force *Policy Revision 2 (September 2002)*
Case ID No. 37026 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101256386
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i), 290.109(d), and 290.122(c)(2)(B) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine coliform samples for the months of August through December 2007; and failed to provide public notification of the failure to sample for August 2007. Specifically, at the time of the record review, it was documented that coliform samples were collected from August through December 2007; however, the samples were not tested and analyzed at a laboratory certified by the Executive Director.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Failure to have routine coliform samples tested by Commission approved laboratories could expose customers of the water supply to a significant amount of undetected contaminants that would not exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Five single events are recommended, based on the months the Respondent failed to submit samples to a certified laboratory.

Good Faith Efforts to Comply

Reduction

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent United States Department of the Air Force
Case ID No. 37026
Reg. Ent. Reference No. RN101256386
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

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

Notes for AVOIDED costs

There is no economic benefit to this violation. The Respondent paid to have the samples tested, however, the samples were not submitted to a lab certified by the Executive Director.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 6-Jan-2009 **Docket No.** 2009-0109-PWS-E **PCW**
Respondent United States Department of the Air Force *Policy Revision 2 (September 2002)*
Case ID No. 37026 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101256386
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="25%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent United States Department of the Air Force
Case ID No. 37026
Reg. Ent. Reference No. RN101256386
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	1-Feb-2008	29-Feb-2008	0.08	\$0	\$8	\$8
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount necessary (\$25 x 4 samples) to collect the four repeat distribution coliform samples after being notified of a total coliform-positive result, calculated for the month the sample collection was due.

Approx. Cost of Compliance

\$100

TOTAL

\$8

Compliance History Report

Customer/Respondent/Owner-Operator: CN600919401 United States Department of the Air Force Classification: AVERAGE Rating: 2.91

Regulated Entity: RN101256386 147th Texas Air National Guard Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1013173

Location: 14657 Sneider Street, HARRIS COUNTY, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 4, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 05, 2004 to January 05, 2009

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

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

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 01/27/2004 | (257434) |
| 2 | 03/22/2004 | (266453) |
| 3 | 06/21/2007 | (561557) |
| 4 | 12/15/2008 | (709796) |
| 5 | 12/16/2008 | (721485) |
| 6 | 12/16/2008 | (721489) |
| 7 | 12/16/2008 | (721492) |
| 8 | 12/16/2008 | (721496) |
| 9 | 12/16/2008 | (721499) |
| 10 | 12/19/2008 | (721579) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 1 **Date: 01/26/2004 (257434) CN600396121**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system.
- 2 **Date: 11/01/2007 (709796) CN600396121**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2007 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 08/2007 - Failure to post public notice for not collecting routine monitoring sample(s).

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
UNITED STATES DEPARTMENT	§	
OF THE AIR FORCE;	§	ENVIRONMENTAL QUALITY
RN101256386	§	

AGREED ORDER
DOCKET NO. 2009-0109-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the United States Department of the Air Force (“USAF”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and USAF represented by Capt. Charles J. Gartland, Deputy Regional Environmental Counsel, Central Region, United States Department of the Air Force, presented this agreement to the Commission.

USAF understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, USAF agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon USAF.

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

FINDINGS OF FACT

1. USAF owns a public water system located at 14657 Sneider Street, Houston, Harris County, Texas (the “Facility”).
2. The Facility provides water for human consumption, has 70 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).

3. During a record review conducted on March 1, 2008, a TCEQ Central Office investigator documented that USAF:
 - a. Failed to collect routine coliform samples for the months of August through December 2007, and failed to provide public notification of the failure to sample for August 2007; and
 - b. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine coliform sample collected during the month of February 2008.
4. USAF received notice of the violations on or about December 24, 2008.
5. The Executive Director recognizes that USAF has complied with the coliform monitoring requirements and provided water that meets the provisions regarding microbial contaminants since August 1, 2008.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, USAF is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., USAF failed to collect routine coliform samples for the months of August through December 2007, and failed to provide public notification of the failure to sample for August 2007, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i), 290.109(d), and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3.b., USAF failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine coliform sample collected during the month of February 2008, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative fee against USAF for violations of the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes. This Agreed Order and the payment of an administrative fee shall not constitute a waiver of federal sovereign immunity for civil penalties under the Safe Drinking Water Act nor shall this Agreed Order constitute an admission by the USAF that such a waiver of federal sovereign immunity exists.

5. An administrative fee in the amount of nine hundred ninety dollars (\$990.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.

ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that, within forty-five (45) days after the effective date of this Agreed Order, USAF shall pay an assessed administrative fee in the amount of nine hundred ninety dollars (\$990.00) as set forth in Conclusion of Law No. 5, above, for violations of TCEQ rules and state statutes. The payment of this administrative fee and USAF's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative fee payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: United States Department of the Air Force; Docket No. 2009-0109-PWS-E" to:

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

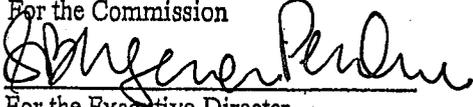
2. The provisions of this Agreed Order shall apply to and be binding upon USAF. USAF is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to USAF if the Executive Director determines that USAF has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against USAF in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to USAF, or three days after the date on which the Commission mails notice of this Agreed Order to USAF, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/22/2010

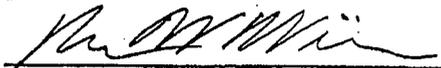
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of United States Department of the Air Force. I represent that I am authorized to agree to the attached Agreed Order on behalf of United States Department of the Air Force, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the fee amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the fee amount, may result in:

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

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



Signature

KENNETH W. WISIAN, Colonel, TXANG
Commander, 147th Reconnaissance Wing

17 Mar 2010

Date

Commander 147 RW

Title

Name (printed or typed)

Authorized Representative

United States Department of the Air Force