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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0716-PWS-E **TCEQ ID:** RN101178978 **CASE NO.:** 39627
RESPONDENT NAME: City of Southside Place

ORDER TYPE:		
<input checked="" 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 type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Southside Place, 6309 Edloe Street, near Houston, Harris County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 30, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Richard Rothfelder, Mayor, City of Southside Place, 6309 Edloe Street, Houston, Texas 77005 Mr. David N. Moss, City Manager, City of Southside Place, 6309 Edloe Street, Houston, Texas 77005 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 12, 2010</p> <p>Date of NOV/NOE Relating to this Case: April 14, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failure to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failure to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].</p>	<p>Total Assessed: \$296</p> <p>Total Deferred: \$59 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$237</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, the Respondent shall mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2009 and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data; and</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and b.</p>

Additional ID No(s): Public Water Supply ID No. 1010023



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-May-2010	Screening	4-May-2010	EPA Due	1-Jul-2008
	PCW	4-May-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Southside Place		
Reg. Ent. Ref. No.	RN101178978		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39627	No. of Violations	1
Docket No.	2010-0716-PWS-E	Order Type	1660
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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes: Enhancement for two prior Notices of Violation ("NOV") for violations that are the same as those in the current enforcement action, nine dissimilar NOV's, and one agreed final enforcement order containing a denial of liability.

Culpability Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 4-May-2010

Docket No. 2010-0716-PWS-E

PCW

Respondent City of Southside Place

Policy Revision 2 (September 2002)

Case ID No. 39627

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101178978

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2):

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	9	18%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 48%

>> 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 for two prior Notices of Violation ("NOV") for violations that are the same as those in the current enforcement action, nine dissimilar NOVs, and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 48%

Screening Date 4-May-2010

Docket No. 2010-0716-PWS-E

PCW

Respondent City of Southside Place

Policy Revision 2 (September 2002)

Case ID No. 39627

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101178978

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2007 and 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 Number of violation days 701

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$200

Two annual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Estimated EB Amount \$838

Statutory Limit Test

Violation Final Penalty Total \$296

This violation Final Assessed Penalty (adjusted for limits) \$296

Economic Benefit Worksheet

Respondent City of Southside Place
Case ID No. 39627
Reg. Ent. Reference No. RN101178978
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
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No commas or \$

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$765	1-Jul-2008	1-Jul-2009	1.92	\$73	\$765	\$838
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the CCRs to the customers of the Facility (calculation: .50 x 665 connections + 50 x 2 years), calculated for the years in which no CCRs were distributed.

Approx. Cost of Compliance

\$765

TOTAL

\$838

Compliance History Report

Customer/Respondent/Owner-Operator: CN600626758 City of Southside Place Classification: AVERAGE Rating: 5.89
Regulated Entity: RN101178978 CITY OF SOUTHSIDE PLACE Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010023
WATER LICENSING LICENSE 1010023

Location: 6309 EDLOE ST, NEAR HOUSTON, HARRIS COUNTY, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 05, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 03, 2005 to May 03, 2010

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/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 judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 04/28/2008

ADMINORDER 2007-1440-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(g)(2)

Description: 07/2007 - Failure to notify the TCEQ within 24 hrs of incurring the acute maximum contaminant level (AMCL).

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(4)

Description: 07/2007 - Failure to rescind BWN in the same manner as initiating the BWN.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(5)

Description: 07/2007 - Failure to send proof of BWN to the TCEQ within 10 days of posting notice.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)

Description: 07/2007 - Failure to post a BWN within 24 hrs after incurring an acute maximum contaminant level violation.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)

Description: 07/2007 - Failure to post an acute maximum contaminant level (AMCL) PN within 24 hrs after notifying the TCEQ in 07/2007.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(5)

Description: 07/2007 - Failure to send proof of PN to the TCEQ within 10 days of posting notice.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(B)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: 07/2007 - Exceeded an acute maximum contaminant level (AMCL) violation in 07/2007.

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	06/15/2007	{644898}
2	07/05/2007	{569300}
3	07/15/2007	{645235}
4	07/25/2007	{567054}
5	07/31/2007	{570293}
6	08/02/2007	{645498}
7	03/31/2008	{639582}
8	05/07/2008	{656988}
9	06/17/2008	{683445}
10	08/14/2008	{687030}
11	01/14/2009	{796221}
12	02/05/2009	{725368}
13	04/27/2009	{740747}
14	11/03/2009	{797730}
15	04/28/2010	{799013}

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

Date: 06/15/2007 (644898) CN600626758
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 07/05/2007 (569300) CN600626758
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.109(g)(2)
Description: 07/2007 - Failure to notify the TCEQ within 24 hrs of incurring the acute maximum contaminant level (AMCL).

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(4)

Description: 07/2007 - Failure to rescind BWN in the same manner as initiating the BWN.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(5)

Description: 07/2007 - Failure to send proof of BWN to the TCEQ within 10 days of posting notice.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)

Description: 07/2007 - Failure to post a BWN within 24 hrs after incurring an acute maximum contaminant level violation.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)

Description: 07/2007 - Failure to post an acute maximum contaminant level (AMCL) PN within 24 hrs after notifying the TCEQ in 07/2007.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(5)

Description: 07/2007 - Failure to send proof of PN to the TCEQ within 10 days of posting notice.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(B)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: 07/2007 - Exceeded an acute maximum contaminant level (AMCL) violation in 07/2007.

Date: 07/15/2007 (645235) CN600626758
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 07/20/2007 (567054) CN600626758
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to replace missing barbed wire along the top of the fence.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements."

Date: 08/02/2007 (645498) CN600626758
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)
Description: PUBLIC NOTICE
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)
Description: BACT - ACUTE MCL

Date: 03/21/2008 (639582) CN600626758
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to replace missing barbed wire along the top of the fence.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements."

Date: 05/09/2008 (656988) CN600626758
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to replace missing barbed wire along the top of the fence.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements."

Date: 01/14/2009 (796221) CN600626758
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2007 to its bill-paying customers.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2007 CCR year to the TCEQ.

Date: 02/06/2009 (725368) CN600626758
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to replace missing barbed wire along the top of the fence.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements."

Date: 04/28/2009 (740747) CN600626758
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(E)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to replace missing barbed wire along the top of the fence.

Date: 11/03/2009 (797730) CN600626758
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to the TCEQ.

F. Environmental audits.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SOUTHSIDE PLACE
RN101178978**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0716-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Southside Place ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 6309 Edloe Street near Houston, Harris County, Texas (the "Facility") that has approximately 665 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 17, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Hundred Ninety-Six Dollars (\$296) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Thirty-Seven Dollars (\$237) of the administrative penalty and Fifty-Nine Dollars (\$59) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and

- satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 9. 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.
 10. 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.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c), as documented during a record review conducted on April 12, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Southside Place, Docket No. 2010-0716-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. It is further ordered that the Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, the Respondent shall mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.274;
 - b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2009 and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

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

- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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 under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier

For the Executive Director

8/13/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

David W. Moss

Signature

JUL 29 2010

Date

David W. Moss

Name (Printed or typed)
Authorized Representative of
City of Southside Place

City Manager

Title

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

