

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-1024-PWS-E **TCEQ ID:** RN101272391 **CASE NO.:** 39922
RESPONDENT NAME: Thomas B. Stucker

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: 3 Star Ice, 17951 Interstate Highway 45 South, Montgomery County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2005-1826-PWS-E.</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 December 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Katy Schumann, Enforcement Division, Enforcement Team 2, MC 169, (512)239-2602; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Dr. Thomas Stucker, 717 Hayne Road, Hillsborough, California 94010 Respondent's Attorney: Ms. Amanda Trapp, Stibbs and Co. Attorneys, P.C., 819 Crossbridge Drive, Spring, Texas 77373</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: May 15, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 2, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to collect routine distribution water samples for coliform analysis, and failed to provide public notification of the failure to collect routine samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Total Assessed: \$10,612</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$322 (remaining \$10,290 due in 35 monthly payments of \$294 each)</p> <p>Compliance History Classification: Person/CN – N/A Site/RN – 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 Orders Justification:</p> <p>The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent ceased operation of the Facility in March 2010.</p>

Additional ID No(s): 1700602



Penalty Calculation Worksheet (PCW)

DATES	Assigned	14-Jun-2010	Screening	15-Jun-2010	EPA Due	30-Nov-2009
	PCW	27-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Thomas B. Stucker
Reg. Ent. Ref. No.	RN101272391
Facility/Site Region	42-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39922	No. of Violations	1
Docket No.	2010-1024-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		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 due to 19 Notices of Violation (NOVs) that contain violations that are the same or similar to those in the current enforcement action, one dissimilar NOVs and one final enforcement order without 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 **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement recommended to recover avoided costs of compliance.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 15-Jun-2010

Docket No. 2010-1024-PWS-E

PCW

Respondent Thomas B. Stucker

Policy Revision 2 (September 2002)

Case ID No. 39922

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101272391

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

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)	19	95%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 122%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to 19 Notices of Violation (NOVs) that contain violations that are the same or similar to those in the current enforcement action, one dissimilar NOVs and one final enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 122%

Screening Date 16-Jun-2010

Docket No. 2010-1024-PWS-E

PCW

Respondent Thomas B. Stucker

Policy Revision 2 (September 2002)

Case ID No. 39922

PCW Revision: October 30, 2008

Reg. Ent. Reference No. RN101272391

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

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

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of February 2008, August 2008, November 2008 and January 2009 through March 2010, and failed to provide public notification of the failure to collect routine samples for the months of February 2008, August 2008, November 2008 and January 2009 through March 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

Matrix Notes Failure to collect water samples for coliform analysis could expose the public to a significant amount of undetected contaminants that would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 18 Number of violation days 543

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,500

Eighteen monthly 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 \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$622

Violation Final Penalty Total \$10,812

This violation Final Assessed Penalty (adjusted for limits) \$10,812

Economic Benefit Worksheet

Respondent: Thomas B. Stucker
Case ID No.: 39922
Reg. Ent. Reference No.: RN101272391
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$450	29-Feb-2008	31-Mar-2010	3.00	\$68	\$450	\$518
Other (as needed)	\$90	1-Jun-2008	31-Aug-2010	3.17	\$14	\$90	\$104

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of eighteen routine water samples (\$25 per sample) and provide public notice for the failure to sample (\$5 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$540

TOTAL

\$622

Compliance History Report

Customer/Respondent/Owner-Operator: CN603547803 STUCKER, THOMAS B Classification: Rating:
Regulated Entity: RN101272391 3 STAR ICE Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1700602
Location: 17951 I H 45 S, MONTGOMERY COUNTY, TX
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: June 28, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 23, 2005 to June 23, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Katy Schumann Phone: (512) 239 - 2602

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? YES
3. If Yes, who is the current owner/operator? THOMAS B. STUCKER
4. If Yes, who was/were the prior owner(s)/operator(s) ? JOPA SPORTS & ENTERTAINMENT, INC.
5. When did the change(s) in owner or operator occur? 06/01/2006

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: 12/22/2006

ADMINORDER 2005-1826-PWS-E

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 04/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: Failure to collect any routine monitoring samples in 04/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 06/2004.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 06/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 07/2004.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 07/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 08/2004.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 08/2004.

Classification: Moderate

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

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 09/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)

Description: Failure to collect any routine monitoring samples in 11/2004.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 11/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 12/2004.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 12/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 02/2005.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 02/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 07/2005.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 07/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 05/2004.

Classification: Moderate

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

Description: Failure to post PN for not collecting a routine monitoring sample in 05/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(I)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 09/2004.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	08/25/2005	(431871)
2	10/05/2005	(433230)
3	08/08/2008	(687681)
4	09/18/2009	(776106)
5	11/09/2009	(780979)
6	05/28/2010	(824956)
7	06/01/2010	(825101)
8	06/01/2010	(825103)

9 06/01/2010 (825107)
 10 06/01/2010 (825116)
 11 06/01/2010 (825118)
 12 06/01/2010 (825122)
 13 06/01/2010 (825128)
 14 06/01/2010 (825141)
 15 06/01/2010 (825146)
 16 06/01/2010 (825151)
 17 06/01/2010 (825153)
 18 06/01/2010 (825158)
 19 06/01/2010 (825161)
 20 06/01/2010 (825167)
 21 06/01/2010 (825173)
 22 06/01/2010 (825179)
 23 06/01/2010 (825180)
 24 06/11/2010 (825353)

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

Date: 08/25/2005 (431871) CN603547803
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect any routine monitoring samples in 07/2005.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: Failure to post PN for not collecting a routine monitoring sample in 07/2005.

Date: 04/16/2008 (824956) CN603547803
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 02/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/24/2008 (687681) CN603547803
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)
 Description: Failure to provide a housed and locked enclosure for hypochlorinator solution container.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to install three strands of barbed wire at the top of the fence at the well site.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
 Description: Failure to plug an abandoned public water supply well owned by the system.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)
 Description: Failure to provide a suitable sampling tap on the well discharge to facilitate the collection of samples for chemical and bacteriological analysis directly from the well.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
 Description: Failure to provide the well with a concrete sealing.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
 Description: Failure to perform at least once every seven days, chlorine residual tests on

water collected from various locations within the distribution system.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to maintain the gate on the fence surrounding the well unit and pressure tank locked to exclude possible contamination or damage to the facilities by trespassers.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure by the regulated entity to develop and maintain an up to date system monitoring plan.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
Description: Failure to submit well completion data on the #2 well.

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 at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Date: 10/10/2008 (825101) CN603547803

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2009 (825103) CN603547803

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 04/07/2009 (825107) CN603547803

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 01/2009 - 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 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/06/2009 (825116) CN603547803

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 02/2009 - 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 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/26/2009 (825118) CN603547803

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 03/2009 - 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 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/15/2009 (825122) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 04/2009 - 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 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/14/2009 (825128) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 05/2009 - 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 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 08/04/2009 (825141) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 06/2009 - 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 06/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 09/16/2009 (825146) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 07/2009 - 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 07/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/02/2009 (825151) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2009 - 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 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 11/05/2009 (825153) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 09/2009 - 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 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/08/2009 (825158) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 10/2009 - 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 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2010 (825161) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 11/2009 - 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 11/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/26/2010 (825167) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 12/2009 - 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 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/16/2010 (825173) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 01/2010 - 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 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/29/2010 (825179) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 02/2010 - 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 02/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/03/2010 (825180) CN603547803
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 03/2010 - 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 03/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

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
THOMAS B. STUCKER
RN101272391**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1024-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Thomas B. Stucker ("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, represented by Amanda Trapp of the law firm of Stibbs and Co. Attorneys, P.C., presented this agreement to the Commission.

The Respondent understands that he 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, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement 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 the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns a public water supply at 17951 Interstate Highway 45 South in Montgomery County, Texas that has one service connection and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on May 15, 2010, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of February 2008, August 2008, November 2008 and January 2009 through March 2010, and did not provide public notification of the failure to collect routine samples for the months of February 2008, August 2008, November 2008 and January 2009 through March 2010.
3. The Respondent received notice of the violations on June 7, 2010.
4. The Executive Director recognizes that the Respondent ceased operation of the Facility in March 2010.

II. CONCLUSIONS OF LAW

1. The Respondent 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 Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis, and failed to provide public notification of the failure to collect routine samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Six Hundred Twelve Dollars (\$10,612) 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(b). The Respondent has paid Three Hundred Twenty-Two Dollars (\$322) of the administrative penalty. The remaining amount of Ten Thousand Two Hundred Ninety Dollars (\$10,290) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Ninety-Four Dollars (\$294) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Six Hundred Twelve Dollars (\$10,612) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Thomas B. Stucker, Docket No. 2010-1024-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 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.
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 the Respondent if the Executive Director determines that the Respondent 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 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures

may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. ...
For the Executive Director

11/2/2010
~~10/4/10~~

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Thomas B. Stucker. I am authorized to agree to the attached Agreed Order on behalf of Thomas B. Stucker, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Thomas B. Stucker dba 3 Starice waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Thomas Stucker
Signature

10/4/10
Date

THOMAS STUCKER
Name (Printed or typed)
Authorized Representative of
Thomas B. Stucker

Title

