

Executive Summary – Enforcement Matter – Case No. 41421

OCP -Tres Rios LLC

RN101241735

Docket No. 2011-0535-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

OCP Tres Rios, 2322 County Road 312, Somervell County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 22, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,034

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$134

Total Due to General Revenue: \$2,900

Payment Plan: 29 payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41421
OCP -Tres Rios LLC
RN101241735
Docket No. 2011-0535-PWS-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 24, 2011 and April 13, 2011

Date(s) of NOE(s): March 8, 2011 and April 13, 2011

Violation Information

Failed to collect routine distribution water samples for coliform analysis and failed to provide notice to persons served by the Facility of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliance monitoring and reporting;
- b. Within 30 days, implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility; and
- c. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Andrea Byington, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2579; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Executive Summary – Enforcement Matter – Case No. 41421

OCP -Tres Rios LLC

RN101241735

Docket No. 2011-0535-PWS-E

Respondent: Michael A. Pournoury, President, OCP -Tres Rios LLC, 1911 Galleria Oaks Drive, Texarkana, Texas, 75503

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Mar-2011	Screening	30-Mar-2011	EPA Due	
	PCW	17-May-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	OCP -Tres Rios LLC		
Reg. Ent. Ref. No.	RN101241735		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41421	No. of Violations	1
Docket No.	2011-0535-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Byington
		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	\$2,000
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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	40.0% Enhancement	Subtotals 2, 3, & 7	\$800
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Notes: Enhancement for eight NOV's with same/similar violations.

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	\$234
Approx. Cost of Compliance	\$315

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,800
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OTHER FACTORS AS JUSTICE MAY REQUIRE	8.4%	Adjustment	\$234
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover avoided costs of compliance.

Final Penalty Amount	\$3,034
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,034
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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	\$3,034
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Screening Date 30-Mar-2011

Docket No. 2011-0535-PWS-E

PCW

Respondent OCP -Tres Rios LLC

Policy Revision 2 (September 2002)

Case ID No. 41421

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101241735

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	8	40%
	Other written NOVs	0	0%
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%

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) 40%

>> 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 for eight NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 30-Mar-2011

Docket No. 2011-0535-PWS-E

PCW

Respondent OCP -Tres Rios LLC

Policy Revision 2 (September 2002)

Case ID No. 41421

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101241735

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

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 April 2010 and September 2010 through March 2011 and failed to provide notice to persons served by the Facility regarding the failure to sample for the months of April, September and October 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to properly sample may expose the public to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 8

242 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Eight monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$234

Violation Final Penalty Total \$3,034

This violation Final Assessed Penalty (adjusted for limits) \$3,034

Economic Benefit Worksheet

Respondent OCP -Tres Rios LLC
Case ID No. 41421
Reg. Ent. Reference No. RN101241735
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)	\$100	24-Jan-2011	1-Dec-2011	0.85	\$4	n/a	\$4

Notes for DELAYED costs

The delayed costs include the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner, calculated from the record review date to the estimated date of compliance.

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]	\$200	30-Apr-2010	31-Mar-2011	1.84	\$18	\$200	\$218
Other (as needed)	\$15	1-Aug-2010	28-Feb-2011	1.50	\$1	\$15	\$16

Notes for AVOIDED costs

The one-time avoided costs and the other costs include the estimated amount to conduct routine monthly sampling (\$25 per month) and the estimated amount to provide public notice to the Facility's employees and customers for failure to sample (\$5 per month), calculated for the months in which routine sampling and public notification did not occur.

Approx. Cost of Compliance

\$315

TOTAL

\$234

Compliance History

Customer/Respondent/Owner-Operator: CN603809153 OCP -Tres Rios LLC Classification: Rating:
Regulated Entity: RN101241735 OCP TRES RIOS Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2130027
Location: 2322 COUNTY ROAD 312, SOMERVELL COUNTY, TEXAS
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: April 18, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 18, 2006 to April 18, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrea Byington Phone: (512) 239-2579

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	11/16/2006	(518221)
2	02/02/2007	(537229)
3	04/23/2007	(554487)
4	02/17/2011	(892884)
5	02/18/2011	(899519)
6	02/18/2011	(899531)
7	02/18/2011	(899532)
8	03/22/2011	(899686)
9	02/24/2011	(900186)
10	04/13/2011	(912550)
11	04/13/2011	(912573)
12	04/14/2011	(912579)

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

Date: 11/14/2006 (518221) CN603809153
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to seal the wellhead in service with the use of gaskets or a pliable crack-resistant caulking compound.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)
Description: Failure to develop a bacteriological system monitoring plan. Retain the completed plan and make it available for review by agency personnel at the time of the annual survey.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
 Description: Failure to maintain Monthly Reports of Water Works Operation.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Description: Failure to prepare and maintain a map of the distribution system so that valves and mains may be easily located during emergencies.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
 Description: Failure to provide the 1,100 gallon pressure tank with facilities for maintaining the air-water volume at the design water level and working pressure.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)
 Description: Failure to cover and design, fabricate, erect, test and disinfect in strict accordance with current American Water Works Association (AWWA) standards, all facilities for potable water storage.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
 Description: Failure to provide the ground storage tank with a vent of the gooseneck or roof ventilator type, excluding turbine ventilators, designed to prevent possible entry of dust, birds, insects or any contaminants. The opening must be protected by a 16-mesh or finer corrosion resistant screening.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
 Description: Failure to provide the ground storage tank with a properly designed roof access opening, with a minimum diameter of 24 inches. If an alternate 30 inch diameter access opening is not provided, the primarily used roof access opening must be at least 30 inches in diameter.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
 Description: Failure to provide the ground storage tank with a properly designed overflow pipe which is equipped with a hinged flap valve. The flap valve must seat properly with a gap of no more than 1/16 inch.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
 Description: Failure to equip the ground storage tank with a water level indicator located at the tank site.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(i)
 Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include: a well capacity of 0.6 gallons per minute per connection.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
 Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include: a pressure tank capacity of 10 gallons per connection with a minimum requirement of 220 gallons.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(ii)
 Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include: a ground storage capacity of 35 gallons per unit.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(iii)
 Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include: two or more service pumps which have a total capacity of 1.0 gallon per minute per connection.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
 Description: Failure to obtain and keep on file for future reference, accurate information pertaining to the well.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.106
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to submit the required number of water samples for bact analysis for July, Aug, Oct, Nov and Dec 1997 and Jan - Mar 1998.
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.103(5)
 Self Report? NO Classification: Major

Description: Failure to provide public notification for failure to collect bact samples.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.106

Description: Failure to collect and submit the appropriate number of repeat water samples for bact analysis for Sept and Oct 1997.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.106(a)(1)

Description: Failure to develop a Sample Siting Plan.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failure to maintain a free chlorine residual of .2 mg/L throughout the distribution system.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

Description: Failure to provide a chlorine test kit which uses the DPD method.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failure to perform chlorine residual tests at representative locations in the distribution system at least once every 7 days.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(h)

Description: Failure to provide calcium hypochlorite disinfectant at the facility for use when making repairs, setting meters and disinfecting new mains prior to placing them in service.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(ii)

Description: Failure to comply with the MWSCR.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)

Description: Failure to submit well completion data pertaining to well 1.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide a concrete sealing block extending at least 3" in all directions from the well.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to seal each well head.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to install a well casing with a screened vent.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)

Description: Failure to provide a ground storage tank for potable water which conforms to current AWWA.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to lock the roof hatch on the ground storage tank.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(9)

Description: Failure to obtain approval prior to installing more than 3 pressure tanks in series at well site 2.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(p)(1)
30 TAC Chapter 290, SubChapter D 290.46(p)(2)

Description: Failure to inspect the ground storage and pressure tanks annually.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to provide filters in the air injection lines from the compressors.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide an intruder resistant fence around the water storage tanks.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46

Description: Failure to flush all dead end mains on a monthly basis or more frequently if required.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)
 Description: Failure to maintain an updated map of the distribution system at the facility.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)
 Description: Failure to compile and maintain monthly reports of water works operations for Commission review.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.46
 Description: Failure to install all system electrical wiring in securely mounted conduit.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
 30 TAC Chapter 290, SubChapter D 290.46(u)
 Description: Failure to provide minimum operating pressure of 35 psi throughout the distribution system.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)
 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to locate a well at the required minimum distance from a septic drainfield and failure to provide a sanitary control easement.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)
 Description: Failure to install a flow meter on each well pump discharge line to provide water usage records and to assist in more efficient system operation.

Self Report? NO Classification: Minor
 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. This tap must be installed prior to any treatment.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to provide a plant operations manual.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(iv)
 Description: Failure to provide a pressure tank capacity of 10 gallons per unit with a minimum of 220 gallons.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failure to conduct annual tank inspections on both the ground storage tank and the pressure tank.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
 Description: Failure to maintain records per this agency's rules and regulations, which require that the following records be retained for at least ten years: copies of Monthly Operating Reports and any supporting documentation including turbidity monitoring results of the combined filter effluent.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121
 Description: Failure to provide an adequate monitoring plan.

Date: 06/10/2010 (892884) CN603809153
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 04/2010 - 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 04/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/26/2010 (899519) CN603809153
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 09/2010 - 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 09/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/07/2010 (899531) CN603809153
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 10/2010 - 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 10/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/04/2011 (899532) CN603809153
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 11/2010 - Failure to collect any routine monitoring sample(s).

Date: 02/11/2011 (900186) CN603809153
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 12/2010 - Failure to collect any routine monitoring sample(s).

Date: 03/10/2011 (912550) CN603809153
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 01/2011 - Failure to collect any routine monitoring sample(s).

Date: 03/31/2011 (912573) CN603809153
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect 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
OCP -TRES RIOS LLC
RN101241735

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0535-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 OCP -Tres Rios LLC (“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 presented this agreement to the Commission.

The Respondent 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, 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 and operates a public water supply at 2322 County Road 312 in Somervell County, Texas (the "Facility") that has approximately 220 service connections and serves at least 25 people per day for at least 60 days per year.
2. During record reviews conducted on January 24, 2011 and April 13, 2011, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of April 2010 and September 2010 through March 2011 and did not provide notice to persons served by the Facility regarding the failure to sample for the months of April, September, and October 2010.
3. The Respondent received notice of the violations on or about March 27, 2011 and April 18, 2011.

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 notice to persons served by the Facility of the failure to sample, 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 Three Thousand Thirty-Four Dollars (\$3,034) 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 One Hundred Thirty-Four Dollars (\$134) of the
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administrative penalty. The remaining amount of Two Thousand Nine Hundred Dollars (\$2,900) of the administrative penalty shall be payable in 29 monthly payments of One Hundred Dollars (\$100) 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 Three Thousand Thirty-Four Dollars (\$3,034) 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: OCP -Tres Rios LLC, Docket No. 2011-0535-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 Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30-TEX.

ADMIN. CODE § 290.109 . This provision will be satisfied upon six months of compliance monitoring and reporting;

- b. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
- c. Within 195 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:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to
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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. 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.
 6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
 8. 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",
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“writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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



For the Executive Director

8/22/11

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of OCP -Tres Rios LLC. I am authorized to agree to the attached Agreed Order on behalf of OCP -Tres Rios LLC, 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, OCP -Tres Rios LLC 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.



Signature

8/15/11

Date

Michael A. Pournoury

Name (Printed or typed)

president

Title

Authorized Representative of
OCP -Tres Rios LLC

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