

Executive Summary – Enforcement Matter – Case No. 36668
Richard Billings d/b/a Oak Hills Ranch Water Company
RN101209914
Docket No. 2011-1046-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
234 Sandy Oaks Drive, Seguin, Guadalupe County

Type of Operation:
Public Water System

Other Significant Matters:
Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: October 14, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,531
Amount Deferred for Expedited Settlement: N/A
Amount Deferred for Financial Inability to Pay: N/A
Total Paid to General Revenue: \$0
Total Due to General Revenue: \$1,531

Compliance History Classifications:
Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 13, 2011
Date(s) of NOV(s): See Compliance History – 6 related NOVs
Date(s) of NOE(s): June 17, 2011

Violation Information

1. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. 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 Executive Director 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) and TCEQ Default Order Docket No. 2008-1651-PWS-E, Ordering Provision No. 2.a.i.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 30 days:
 - a. Begin mailing or directly delivering one copy of the CCR to each bill paying customer and make a good faith effort to deliver a copy of the CCR to non-bill paying customers; and
 - b. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs.
2. Within 45 days, submit a copy of the CCR provided to customers of the Facility, accompanied by written 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.
3. Within 60 days, submit written certification of compliance with Technical Requirement No. 1.b.
4. Within 90 days, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.
5. Within 105 days, submit written certification of compliance with Technical Requirement No. 4.

Litigation Information

Date Petition(s) Filed: August 25, 2011
Date(s) Green Card(s) Signed: August 30, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Executive Summary – Enforcement Matter – Case No. 36668
Richard Billings d/b/a Oak Hills Ranch Water Company
RN101209914
Docket No. 2011-1046-PWS-E

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Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Michaelle Sherlock, Water Enforcement Section, (210) 403-4076

TCEQ Regional Contact: Lynn Bumguardner, San Antonio Regional Office, (210) 403-4050

Respondent: Richard Billings, Oak Hills Ranch Water Company, P.O. Box 1866, Seguin, Texas 78155

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Jun-2011	Screening	27-Jun-2011	EPA Due	31-Dec-2010
	PCW	28-Jun-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Richard Billings dba Oak Hills Ranch Water Company
Reg. Ent. Ref. No.	RN101209914
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36668	No. of Violations	2
Docket No.	2011-1046-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michaelle Sherlock
		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	\$600
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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	63.0% Enhancement	Subtotals 2, 3, & 7	\$378
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Notes	Enhancement for six NOVs with same/similar violations, four NOV with dissimilar violations, and one default order.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$558	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$612	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$978
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OTHER FACTORS AS JUSTICE MAY REQUIRE	56.5%	Adjustment	\$553
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement recommended for the recovery of avoided costs for Violation Nos. 1 and 2.
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Final Penalty Amount	\$1,531
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,531
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$1,531
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Screening Date 27-Jun-2011

Docket No. 2011-1046-PWS-E

PCW

Respondent Richard Billings dba Oak Hills Ranch Water Comp

Policy Revision 2 (September 2002)

Case ID No. 36668

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101209914

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

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>)	6	30%
	Other written NOVs	4	8%
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	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 (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 63%

>> 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 six NOVs with same/similar violations, four NOV with dissimilar violations, and one default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 63%

Screening Date 27-Jun-2011

Docket No. 2011-1046-PWS-E

PCW

Respondent Richard Billings dba Oak Hills Ranch Water Company

Policy Revision 2 (September 2002)

Case ID No. 36668

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101209914

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following each quarter. Specifically, the Facility failed to submit DLQORs for the third and fourth quarters of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 180 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$200

Two quarterly 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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$510

This violation Final Assessed Penalty (adjusted for limits) \$510

Economic Benefit Worksheet

Respondent Richard Billings dba Oak Hills Ranch Water Company
Case ID No. 36668
Req. Ent. Reference No. RN101209914
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	\$45	13-Jun-2011	1-Apr-2012	0.80	\$2	n/a	\$2
Training/Sampling	\$100	13-Jun-2011	1-Apr-2012	0.80	\$4	n/a	\$4
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

The delayed cost includes the estimated amount to update the Facility's operational guidance and conduct employee training to ensure the timely submittal of DLQORs. Date required is the record review date and the final date is 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]	\$45	10-Oct-2010	10-Jan-2011	1.17	\$3	\$45	\$48
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to prepare and submit the missing DLQORs. The date required is the day the report was due for the third quarter of 2010 and the final date is the day the report was due for the fourth quarter of 2010.

Approx. Cost of Compliance

\$190

TOTAL

\$53

Screening Date 27-Jun-2011

Docket No. 2011-1046-PWS-E

PCW

Respondent Richard Billings dba Oak Hills Ranch Water Company

Policy Revision 2 (September 2002)

Case ID No. 36668

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101209914

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c) and TCEQ Default Order Docket No. 2008-1651-PWS-E, Ordering Provision No. 2.a.i

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 Executive Director 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 Executive Director for the years 2006 through 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 4 1460 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$400

Four annual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$505

Violation Final Penalty Total \$1,021

This violation Final Assessed Penalty (adjusted for limits) \$1,021

Economic Benefit Worksheet

Respondent Richard Billings dba Oak Hills Ranch Water Company
Case ID No. 36668
Req. Ent. Reference No. RN101209914
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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]	\$422	1-Jul-2007	1-Jul-2010	3.92	\$83	\$422	\$505
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the time period when the reports were due.

Approx. Cost of Compliance

\$422

TOTAL

\$505

Compliance History

Customer/Respondent/Owner-Operator: CN602894909 BILLINGS, RICHARD Classification: Rating:
Regulated Entity: RN101209914 OAK HILLS RANCH WATER CO Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0940085
WATER LICENSING LICENSE 0940085
Location: 234 SANDY OAKS DRIVE, SEGUIN, GUADALUPE COUNTY, TEXAS
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: June 20, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 20, 2006 to June 20, 2011

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

Name: Michaelle Sherlock Phone: (210) 403-4076

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.

Effective Date: 07/05/2009

ADMINORDER 2008-1651-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)

Description: Failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit 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 to the TCEQ by July 1 of each year.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 290, SubChapter D 290.51(a)(6)

Description: Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90940085 for Fiscal Years 1993 through 2008 to the TCEQ in a timely manner.

- 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	08/29/2008	(687528)
2	02/01/2010	(789930)
3	06/15/2011	(933281)
4	06/15/2011	(933550)
5	07/27/2009	(933555)
6	07/27/2009	(933614)
7	06/15/2011	(933622)
8	12/22/2010	(933637)
9	11/03/2009	(933646)
10	01/28/2009	(933653)
11	03/31/2008	(933659)
12	06/17/2011	(933807)

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

Date: 03/31/2008 (933659)CN602894909
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 2006 to its bill-paying customers.
Self Report? NO Classification: Moderate
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 2006 CCR year to the TCEQ.

Date: 01/28/2009 (933653) CN602894909
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: Moderate
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: 07/27/2009 (933555) CN602894909
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(2)
30 TAC Chapter 290, SubChapter F 290.107(e)
Description: This system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2008/ to 12/31/2010.

Date: 07/27/2009 (933614) CN602894909
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
30 TAC Chapter 290, SubChapter F 290.106(e)
Description: This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the annual monitoring period from 01/01/2008 to 12/31/2008.

Date: 11/03/2009 (933646) CN602894909
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: Moderate
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.

Date: 02/05/2010 (789930) CN602894909
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to maintain all water storage facilities in a watertight condition.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to develop and maintain an up-to-date chemical and microbiological monitoring plan.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to make records accessible for review during an investigation.

Date: 12/22/2010 (933637) CN602894909
 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 2009 to its bill-paying customers.
 Self Report? NO Classification: Moderate
 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 2009 CCR year to the TCEQ.

Date: 06/15/2011 (933550) CN602894909
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

Date: 06/15/2011 (933622) CN602894909
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(e)
 Description: This system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010.

Date: 06/15/2011 (933281) CN602894909
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010.

- 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RICHARD BILLINGS D/B/A
OAK HILLS RANCH WATER
COMPANY;
RN101209914**

§
§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1046-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Richard Billings d/b/a Oak Hills Ranch Water Company ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 234 Sandy Oaks Drive in Seguin, Guadalupe County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 111 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on June 13, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following each quarter. Specifically, the Facility failed to submit DLQORs for the third and fourth quarters of 2010; and
 - b. 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 Executive Director 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, Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did Respondent submit the CCR or the required certification to the Executive Director for the years 2006 through 2009.

3. Respondent received notice of the violations on or about June 22, 2011.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Richard Billings d/b/a Oak Hills Ranch Water Company" (the "EDPRP") in the TCEQ Chief Clerk's office on August 25, 2011.
5. By letter dated August 25, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 30, 2011, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the Executive Director 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) and TCEQ Default Order Docket No. 2008-1651-PWS-E, Ordering Provision No. 2.a.i.
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

An administrative penalty in the amount of one thousand five hundred thirty-one dollars (\$1,531.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.

7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of one thousand five hundred thirty-one dollars (\$1,531.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Richard Billings d/b/a Oak Hills Ranch Water Company; Docket No. 2011-1046-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Begin mailing or directly delivering one copy of the CCR to each bill paying customer and make a good faith effort to deliver a copy of the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274; and
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110.
 - b. Within 45 days after the effective of this Order, Respondent shall submit a copy of the CCR provided to customers of the Facility pursuant to Ordering Provision No. 3.a.i., which shall be accompanied by written certification as described in Ordering Provision No. 3.f. below, 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, to demonstrate compliance with Ordering Provision No. 3.a.i. The copy of the CCR and the certification shall be submitted 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 Order, Respondent shall submit written certification as described in Ordering Provision No. 3.f. below, to demonstrate compliance with Ordering Provision No. 3.a.ii.
- d. Within 90 days after the effective date of this Order, Respondent shall begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

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

- e. Within 105 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.f. below, to demonstrate compliance with Ordering Provision No. 3.d.
- f. The certifications required these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PEIPEY TANG

STATE OF TEXAS

§

COUNTY OF TRAVIS

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Richard Billings d/b/a Oak Hills Ranch Water Company" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on August 25, 2011.

The EDPRP was mailed to Respondent's last known address on August 25, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on August 30, 2011, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP Respondent failed to file an answer and failed to request a hearing."

Peipey Tang
Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 22nd day of September, A.D. 2011.

Margaret Jackson
Notary Signature

