

**Executive Summary – Enforcement Matter – Case No. 42072
Charles Kenneth Horn d/b/a Charlies Country Store and Café
RN104375084
Docket No. 2011-1192-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:

Charlies Country Store and Café, 1406 South United States Highway 281, Marble Falls,
Burnet 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: September 2, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,376

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,376

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 42072
Charles Kenneth Horn d/b/a Charlies Country Store and Café
RN104375084
Docket No. 2011-1192-PWS-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: June 20, 2011
Date(s) of NOE(s): June 24, 2011

Violation Information

1. Failed to comply with the Acute Maximum Contaminant Level for total coliform and *E. coli* bacteria [30 TEX. ADMIN. CODE § 290.109(f)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
2. Failed to collect a raw groundwater source *E. coli* sample from each groundwater source within 24 hours of being notified of the distribution total coliform-positive sample result [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)].
3. Failed to collect at least five routine distribution coliform samples for the month following a total coliform-positive sample result [30 TEX. ADMIN. CODE § 290.109(c)(2)(F)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, begin complying with applicable coliform monitoring requirements by collecting at least five routine distribution coliform samples and raw groundwater samples when required, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility; and
- b. 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

**Executive Summary – Enforcement Matter – Case No. 42072
Charles Kenneth Horn d/b/a Charlies Country Store and Café
RN104375084
Docket No. 2011-1192-PWS-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harvey Wilson, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-0321; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Charles K. Horn, Owner, Charlies Country Store and Café, 1406 South
United States Highway 281, Marble Falls, Texas 78654-9348

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Jun-2011	Screening	13-Jul-2011	EPA Due	30-Jun-2011
	PCW	14-Jul-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Charles Kenneth Horn d/b/a Charlies Country Store and Café				
Reg. Ent. Ref. No.	RN104375084				
Facility/Site Region	11-Austin	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	42072	No. of Violations	3
Docket No.	2011-1192-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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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	17.0% Enhancement	Subtotals 2, 3, & 7	\$170
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Notes: Enhancement for three NOV's with same/similar violations and one NOV with dissimilar 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	\$206
Approx. Cost of Compliance	\$200

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,170
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OTHER FACTORS AS JUSTICE MAY REQUIRE	17.6%	Adjustment	\$206
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover the avoided costs of compliance associated with the violations.

Final Penalty Amount	\$1,376
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,376
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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	\$1,376
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Screening Date 13-Jul-2011

Docket No. 2011-1192-PWS-E

PCW

Respondent Charles Kenneth Horn d/b/a Charlies Country Store and Café

Policy Revision 2 (September 2002)

Case ID No. 42072

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104375084

Media [Statute] Public Water Supply

Enf. Coordinator Harvey Wilson

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>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 17%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 17%

Screening Date 13-Jul-2011

Docket No. 2011-1192-PWS-E

PCW

Respondent Charles Kenneth Horn d/b/a Charles Country Store and Café

Policy Revision 2 (September 2002)

Case ID No. 42072

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104375084

Media [Statute] Public Water Supply

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(1)(B) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the Acute Maximum Contaminant Level ("AMCL") for total coliform and Escherichia coli ("E. coli") bacteria during the month of February 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	X		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

The presence of E. coli bacteria is an indication that the water supply is contaminated with a significant amount of contaminants which exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 1

28 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

One monthly event is recommended for the month of the exceedance.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$688

This violation Final Assessed Penalty (adjusted for limits) \$688

Economic Benefit Worksheet

Respondent Charles Kenneth Horn d/b/a Charlies Country Store and Café
Case ID No. 42072
Reg. Ent. Reference No. RN104375084
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
<small>No commas or \$</small>							

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]	\$50	1-Feb-2011	28-Feb-2011	0.00	\$0	\$50	\$50
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to ensure that the AMCL for total coliform and E. coli bacteria is not exceeded, calculated for the month in which the violation occurred.

Approx. Cost of Compliance \$50

TOTAL \$50

Screening Date 13-Jul-2011

Docket No. 2011-1192-PWS-E

PCW

Respondent Charles Kenneth Horn d/b/a Charlies Country Store and Café

Policy Revision 2 (September 2002)

Case ID No. 42072

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104375084

Media [Statute] Public Water Supply

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description Failed to collect a raw groundwater source E. coli sample from each groundwater source within 24 hours of being notified of the distribution total coliform-positive sample result during the month of February 2011.

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 perform triggered source monitoring could result in persons served by the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 28

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended for the month in which triggered source samples were not collected.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$344

This violation Final Assessed Penalty (adjusted for limits) \$344

Economic Benefit Worksheet

Respondent Charles Kenneth Horn d/b/a Charlies Country Store and Café
Case ID No. 42072
Reg. Ent. Reference No. RN104375084
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]	\$25	28-Feb-2011	1-Mar-2011	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect raw groundwater source samples for each active groundwater well (\$25 per sample x 1 source not sampled) calculated for the 24-hour period following the coliform-positive result.

Approx. Cost of Compliance \$25

TOTAL \$25

Screening Date 13-Jul-2011

Docket No. 2011-1192-PWS-E

PCW

Respondent Charles Kenneth Horn d/b/a Charles Country Store and Café

Policy Revision 2 (September 2002)

Case ID No. 42072

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104375084

Media [Statute] Public Water Supply

Enf. Coordinator Harvey Wilson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(F)

Violation Description

Failed to collect at least five routine distribution coliform samples for the month following a total coliform-positive sample result. Specifically, at least five routine distribution coliform samples were not collected during the month of March 2011 which was the month following a total coliform-positive sample result in February 2011.

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 collect water samples for coliform analysis may expose the public to a significant amount of undetected contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended for the month in which five distribution samples were not collected.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$131

Violation Final Penalty Total \$344

This violation Final Assessed Penalty (adjusted for limits) \$344

Economic Benefit Worksheet

Respondent Charles Kenneth Horn d/b/a Charlies Country Store and Café

Case ID No. 42072

Reg. Ent. Reference No. RN104375084

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Mar-2011	31-Mar-2011	1.00	\$6	\$125	\$131
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect the appropriate number of water samples (5 total) for the month following a total-coliform positive sample result (\$25 per sample).

Approx. Cost of Compliance \$125

TOTAL \$131

Compliance History

Customer/Respondent/Owner-Operator: CN603363946 HORN, CHARLES KENNETH Classification: AVERAGE Rating:3.01

Regulated RN104375084 CHARLIES COUNTRY STORE AND CAFE Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0270130

Location: 1406 S US HIGHWAY 281, MARBLE FALLS, BURNET CO.

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History: July 13, 2011

Agency Decision Requiring Compliance Enforcement

Compliance Period: July 13, 2006 to July 13, 2011

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

Name: Harvey Wilson Phone: 239 - 0321

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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
- 6.

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	4/24/09	(742591)
2	3/2/10	(793530)
3	6/22/11	(934401)
4	6/22/11	(934651)
5	6/24/11	(934882)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/24/2009 (742591)	CN603363946	
Self:	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)		
Description:	The water system failed to retain a record of the results of the weekly disinfectant residual monitoring.		
Self:	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.110(d)(1)(C)(ii)		
Description:	The water system failed to use an approved method of monitoring the residual disinfectant concentration. When monitoring the free chlorine residual the water system was not using either a colorimeter, spectrophotometer or color comparator test kit.		

Date: 03/01/2011 (934401) CN603363946
Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(B)
Description: TCR AMCL Violation 02/2011 - System received an Acute Maximum Contaminant Level (AMCL) Violation.

Date 04/05/2011 (934401) CN603363946
Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source Monitoring Violation 02/2011 - Failure to collect a triggered source monitoring sample following a coliform found result for one source.

Date 04/29/2011 (934651) CN603363946
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 03/2011 - Failure to collect all 5 distribution samples following a coliform found month.

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
CHARLES KENNETH HORN D/B/A	§	TEXAS COMMISSION ON
CHARLIES COUNTRY STORE AND	§	
CAFÉ	§	
RN104375084	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-1192-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 Charles Kenneth Horn d/b/a Charlies Country Store and Café (“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 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 and operates a public water supply at 1406 South United States Highway 281 in Marble Falls, Burnet County, Texas (the "Facility") that has approximately one service connection and serves at least 25 people per day for at least 60 days per year.
2. During a record review on June 20, 2011, TCEQ staff documented that the Facility did not comply with the Acute Maximum Contaminant Level ("AMCL") for total coliform and Escherichia coli ("E. coli") bacteria during the month of February 2011.
3. During a record review on June 20, 2011, TCEQ staff documented that a raw groundwater source E. coli sample was not collected from each groundwater source within 24 hours of being notified of the distribution total coliform-positive sample result during the month of February 2011.
4. During a record review on June 20, 2011, TCEQ staff documented that at least five routine distribution coliform samples were not collected during the month of March 2011 which was the month following a total coliform-positive sample result in February 2011.
5. The Respondent received notice of the violations on July 1, 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 comply with the AMCL for total coliform and E. coli bacteria, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect a raw groundwater source E. coli sample from each groundwater source within 24 hours of being notified of the distribution total coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect at least five routine distribution coliform samples for the month following a total coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
5. 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.

6. An administrative penalty in the amount of One Thousand Three Hundred Seventy-Six Dollars (\$1,376) 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 the One Thousand Three Hundred Seventy-Six Dollar (\$1,376) administrative penalty.

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 One Thousand Three Hundred Seventy-Six Dollars (\$1,376) as set forth in Section II, Paragraph 6 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: Charles Kenneth Horn d/b/a Charlies Country Store and Café, Docket No. 2011-1192-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 30 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting at least five routine distribution coliform samples and raw groundwater samples when required, 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 consecutive months of compliant monitoring and reporting at the Facility; and
 - b. 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 No. 2.a. 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 Water Supply Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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)

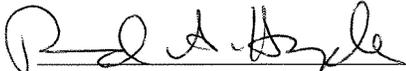
enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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", "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

9/12/11

Date

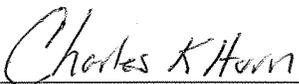
I, the undersigned, have read and understand the attached Agreed Order in the matter of Charles Kenneth Horn d/b/a Charlies Country Store and Café. I am authorized to agree to the attached Agreed Order on behalf of Charles Kenneth Horn d/b/a Charlies Country Store and Café, and do agree to the specified 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, Charles Kenneth Horn d/b/a Charlies Country Store and Café 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

8-9-11

Date

Charles K Horn

Name (Printed or typed)
Authorized Representative of
Charles Kenneth Horn d/b/a Charlies Country Store and Café

owner

Title

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