

Executive Summary – Enforcement Matter – Case No. 36524
Highland Park Water Supply Corporation
RN101254407
Docket No. 2010-1944-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

County Road 3590, one half mile northwest of the intersection of County Roads 3590 and 3570 near Valley Mills, Bosque 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: \$650

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$650

Total Due to General Revenue: \$0

SEP Conditional Offset: 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

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: October 18, 2010
Date(s) of NOV(s): February 20, 2007; August 26, 2010
Date(s) of NOE(s): November 30, 2010

Violation Information

1. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, and failed to ensure the fence around the Facility is intruder-resistant [30 TEX. ADMIN. CODE §§ 290.43(e) and 290.46(m)].
2. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].
3. Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)].
4. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted [30 TEX. ADMIN. CODE § 290.46(i)].
5. Failed to keep on file copies of well completion data such as well material setting data, geological log, scaling information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well, as long as the well remains in service [30 TEX. ADMIN. CODE § 290.46(n)(3), and TCEQ Agreed Order Docket No. 2008-1488-PWS-E, Ordering Provision 2.b.ii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

As of November 24, 2010, Respondent submitted its water well report which included well material setting data, geological log, and scaling information (pressure cementing and surface protection).

Technical Requirements:

1. Within 30 days:
 - a. Develop and begin maintaining an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements; and
 - b. Adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted.
2. Within 60 days, initiate maintenance and housekeeping practices to ensure the good working condition and general appearances of the Facility's equipment, including but not limited to the removal of trees and vines growing in and through the fence at the Facility and ensure the fence is maintained in an intruder-resistant condition.

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3. Within 90 days:
 - a. Provide an accurate and up-to-date map for the distribution system so that valves and mains can be easily located during emergencies; and
 - b. Provide copies of well completion data, including but not limited to disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well, in accordance with 30 TEX. ADMIN. CODE § 290.46, or obtain an exception to the rule.
4. Submit written certification to demonstrate compliance:
 - a. Within 60 days for Technical Requirement No. 1;
 - b. Within 90 days for Technical Requirement No. 2;
 - c. Within 150 days for Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: June 21, 2011
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: September 19, 2011

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ SEP Coordinator: N/A
TCEQ Enforcement Coordinator: Andrea Linson, Water Enforcement Section, (512) 239- 1482
TCEQ Regional Contact: Frank Burleson, Waco Regional Office, (254) 761-3001
Respondent: Ronald Lemay, President, Highland Park Water Supply Corporation, P.O. Box 254,
China Spring, Texas 76633
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	29-Nov-2010	Screening	2-Dec-2010	EPA Due	
	PCW	2-Dec-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Highland Park Water Supply Corporation
Reg. Ent. Ref. No.	RN101254407
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36524	No. of Violations	5
Docket No.	2010-1944-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeoduru
		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	\$500
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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	30.0% Enhancement	Subtotals 2, 3, & 7	\$150
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Notes	Enhancement for two NOV's with same/similar violations and one final agreed order with denial of liability.
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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	\$97	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,240	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$650
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$650
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$650
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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	\$650
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Screening Date 2-Dec-2010

Docket No. 2010-1944-PWS-E

PCW

Respondent Highland Park Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254407

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 30%

>> 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 two NOVs with same/similar violations and one final agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 2-Dec-2010

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PCW

Respondent Highland Park Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254407

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(m) and 290.43(e)

Violation Description Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment and failed to ensure the fence around the Facility is intruder-resistant. Specifically, at the time of the investigation, it was documented that the fence at the Facility was overgrown with trees and vines.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to properly secure the Facility and appertunances with an intruder-resistant fence and provide adequate maintenance and housekeeping may expose customers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 45 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the investigation date, October 18, 2010, to the screening date, December 2, 2010.

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Highland Park Water Supply Corporation
Case ID No. 36524
Req. Ent. Reference No. RN101254407
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)	\$200	18-Oct-2010	31-Aug-2011	0.87	\$1	\$12	\$12
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

The delayed cost includes the estimated amount to remove the vegetation growing in and around the fence including making any necessary repairs or replacements, calculated from the investigation 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$12

Screening Date 2-Dec-2010

Docket No. 2010-1944-PWS-E

PCW

Respondent Highland Park Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254407

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

Matrix Notes The Respondent failed to meet 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 45 Number of violation days

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Highland Park Water Supply Corporation
Case ID No. 36524
Req. Ent. Reference No. RN101254407
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
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	\$180	18-Oct-2010	31-Jul-2011	0.78	\$7	n/a	\$7
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

The delayed cost includes the estimated amount to develop and maintain an up-to-date chemical and microbiological monitoring plan, calculated from the investigation 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$7

Screening Date 2-Dec-2010

Docket No. 2010-1944-PWS-E

PCW

Respondent Highland Park Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254407

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(2)

Violation Description Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.

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%
The Respondent failed to meet 100% of the rule requirement.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 45 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Highland Park Water Supply Corporation
Case ID No. 36524
Req. Ent. Reference No. RN101254407
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)	\$180	18-Oct-2010	30-Sep-2011	0.95	\$1	\$11	\$12
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

The delayed cost includes the amount to develop and maintain an accurate and up-to-date map of the distribution system that shows the locations of the Facility's mains and valves, calculated from the investigation 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$12

Screening Date 2-Dec-2010

Docket No. 2010-1944-PWS-E

PCW

Respondent Highland Park Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254407

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.46(i)

Violation Description Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted.

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%
The Respondent failed to meet 100% of the rule requirement.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 45 Number of violation days

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

Violation Base Penalty \$100

One single event is 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Highland Park Water Supply Corporation
Case ID No. 36524
Req. Ent. Reference No. RN101254407
Media Public Water Supply
Violation No. 4

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)	\$180	18-Oct-2010	31-Jul-2011	0.78	\$0	\$9	\$10
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

The delayed costs includes the estimated amount to adopt a plumbing ordinance or adequate service agreement, calculated from the investigation 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$10

Screening Date 2-Dec-2010

Docket No. 2010-1944-PWS-E

PCW

Respondent Highland Park Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254407

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3) and TCEQ Agreed Order Docket No. 2008-1488-PWS-E, Ordering Provision No. 2.b.ii.

Violation Description Failed to keep on file copies of well completion data such as well material setting data, geological log, scaling information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well, as long as the well remains in service.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%). Matrix Notes: The Respondent failed to meet 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 223

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

Table for Good Faith Efforts: Reduction (0.0%), Before NOV, NOV to EDPRP/Settlement Offer.

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$56

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Highland Park Water Supply Corporation
Case ID No. 36524
Req. Ent. Reference No. RN101254407
Media Public Water Supply
Violation No. 5

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)	\$500	22-Feb-2010	30-Sep-2011	1.60	\$3	\$53	\$56
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

The delayed cost includes the amount necessary to obtain the required well completion data, calculated from effective date of TCEQ Agreed Order Docket No. 2008-1488-PWS-E 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$56

Compliance History

Customer/Respondent/Owner-Operator: CN600684401 Highland Park Water Supply Corporation Classification: Rating:

Regulated Entity: RN101254407 HIGHLAND PARK WATER CORP Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0180071
 WATER LICENSING LICENSE 0180071

Location: ON COUNTY ROAD 3590, 0.5 MILE NW OF THE INTERSECTION OF COUNTY ROAD 3590 & 3570, NEAR VALLEY MILLS, BOSQUE COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: November 29, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 29, 2005 to November 29, 2010

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 02/22/2010 ADMINORDER 2008-1488-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)
 5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide adequate well capacity.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)
 5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide two or more pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane, specifically the water system is required 448 GPM compared to the provided 300 GPM.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to maintain copies of well driller's log for as long as the well remains in service.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failed to perform an annual inspection of the Facility's ground storage tank.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to calibrate well meter at least once every three years, specifically well, G0180071A, probably last calibrated in 2003.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to have a proper water system's ownership sign posted at the pump station, specifically the sign needed to include the water system's name.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failed to conduct an annual exterior inspection of the of the Facility's pressure tank, as well as an inspection of the interior of the pressure tank once every five years

- 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. (CEEDS Inv. Track. No.)

- | | | |
|---|------------|----------|
| 1 | 02/16/2007 | (537590) |
| 2 | 07/01/2008 | (683268) |
| 3 | 09/04/2008 | (700678) |
| 4 | 08/26/2010 | (850417) |
| 5 | 11/22/2010 | (871080) |

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

Date: 02/20/2007 (537590) CN600684401

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to provide adequate pressure maintenance capacity.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to provide adequate well capacity.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to initiate a maintenance program to ensure the reliability and general appearances of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to provide a sanitary easement covering all property within 150 feet of the well.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to provide two or more pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane, specifically the water system is required 448 GPM compared to the provided 300 GPM.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
Description: Failure to maintain copies of well driller's log for as long as the well remains in service.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Description: Failed to perform an annual inspection of the Facility's ground storage tank.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to calibrate well meter at least once every three years, specifically well, G0180071A, probably last calibrated in 2003.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
Description: Failure to have a proper water system's ownership sign posted at the pump station, specifically the sign needed to include the water system's name.

Date: 08/26/2010 (850417) CN600684401

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: Failure to provide adequate well capacity.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
Description: Failure to maintain copies of well driller's log for as long as the well remains in service.

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
HIGHLAND PARK WATER SUPPLY
CORPORATION;
RN101254407**

**§
§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1944-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Highland Park Water Supply Corporation ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, presented this Agreed Order to the Commission.

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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 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 County Road 3590, one half mile northwest of the intersection of County Roads 3590 and 3570 near Valley MillsChina Springs, Bosque County, Texas (the "Facility"). The Facility provides water for human consumption, has 206 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 an investigation conducted on October 18, 2010, a TCEQ Waco Regional Office investigator documented that Respondent:
 - a. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, and failed to ensure the fence around the Facility is intruder-resistant. Specifically, the fence was overgrown with trees and vines;

- b. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements;
 - c. Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies;
 - d. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted; and
 - e. Failed to keep on file copies of well completion data such as well material setting data, geological log, scaling information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well, as long as the well remains in service.
3. Respondent received notice of the violations on or about December 5, 2010.
 4. The Executor Director recognizes that as of November 24, 2010, Respondent submitted its water well report which included well material setting data, geological log, and scaling information (pressure cementing and surface protection).

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, 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 Finding of Fact No. 2.a., Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, and failed to ensure the fence around the Facility is intruder-resistant, in violation of 30 TEX. ADMIN. CODE §§ 290.43(e) and 290.46(m).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in violation of 30 TEX. ADMIN. CODE § 290.46(i).

6. As evidenced by Finding of Fact No. 2.e., Respondent failed to keep on file copies of well completion data such as well material setting data, geological log, scaling information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well, as long as the well remains in service, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3), and TCEQ Agreed Order Docket No. 2008-1488-PWS-E, Ordering Provision 2.b.ii.
7. 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.
8. An administrative penalty in the amount of six hundred fifty dollars (\$650.00) 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. Respondent paid six hundred fifty dollars (\$650.00) of the administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 8, above, 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 Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Develop and begin maintaining an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, as required by 30 TEX. ADMIN. CODE § 290.121 (Conclusion of Law No. 3); and
 - ii. Adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, as required by 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 5).

- b. Within 60 days after the effective date of this Order, Respondent shall:
 - i. Submit written certification and detailed supporting documentation, in accordance with Ordering Provision No.2.e., below, to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.; and
 - ii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearances of the Facility's equipment, including but not limited to the removal of trees and vines growing in and through the fence at the Facility and ensure the fence is maintained in an intruder-resistant condition, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.43 (Conclusion of Law No. 2).
- c. Within 90 days after the effective date of this Order, Respondent shall:
 - i. Submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provision No. 2.b.ii.; and
 - ii. Provide an accurate and up-to-date map for the distribution system so that valves and mains can be easily located during emergencies, as required by 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 4); and
 - iii. Provide copies of well completion data, including but not limited to disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well, in accordance with 30 TEX. ADMIN. CODE § 290.46, or obtain an exception to the rule, in accordance with 30 TEX. ADMIN. CODE §290.39 (Conclusion of Law No. 6).
- d. Within 105 days after the effective date of this Order, Respondent shall submit written certification as and detailed supporting documentation, in accordance with Ordering Provision No. 2.e, below, to demonstrate compliance with Ordering Provision Nos. 2.c.ii. and 2.c.iii.
- e. The certifications required by 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Frank Burleson, Water Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Ave., Ste. 2500
Waco TX 76710-7826

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. 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 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.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
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

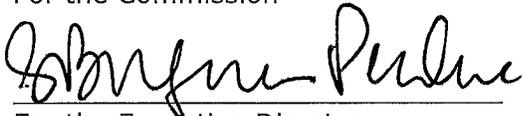
an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/28/2011

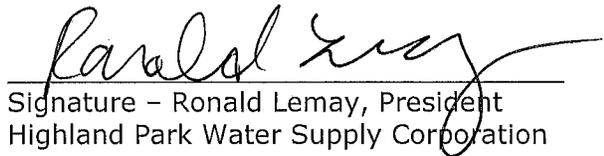
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Highland Park Water Supply Corporation, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature – Ronald Lemay, President
Highland Park Water Supply Corporation

9-19-2011

Date