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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2010-1426-PWS-E TCEQ ID: RN101284743 CASE NO.: 40300**  
**RESPONDENT NAME: Demontrond Buick Company**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 166o AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** De Montrond Buick, 14101 North Freeway near Houston, Harris County

**TYPE OF OPERATION:** Car dealership with a public water supply

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on December 27, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  
**Respondent:** Mr. George A. De Montrond III, President, Demontrond Buick Company, 14101 North Freeway, Houston, Texas 77090  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 1, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 15, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p>	<p><b>Total Assessed:</b> \$6,477</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$6,477</p> <p><b>Compliance History Classifications:</b>            Person/CN – Average            Site/RN – N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b></p> <p>The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting;</p> <p>b. Within 30 days after the effective date of this Agreed Order, develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification is provided to the customers of the Facility in the event that the Facility fails to perform the required coliform monitoring or other conditions that indicate the potability of water may have been compromised; and</p> <p>c. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s).: PWS Registration No. 1011643



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	9-Aug-2010	<b>Screening</b>	18-Aug-2010	<b>EPA Due</b>	28-Feb-2010
	<b>PCW</b>	19-Aug-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Demontrond Buick Company	
<b>Reg. Ent. Ref. No.</b>	RN101284743	
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b> Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40300	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-1426-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Henry
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **72.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,520**

Notes: Enhancement for 14 NOVs with same/similar violations to those in the current enforcement action and one dissimilar violation.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$460  
 Approx. Cost of Compliance \$515  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$6,020**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **7.6%** **Adjustment** **\$457**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance.

**Final Penalty Amount** **\$6,477**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$6,477**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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** **\$6,477**

Screening Date 18-Aug-2010

Docket No. 2010-1426-PWS-E

PCW

Respondent Demontrond Buick Company

Policy Revision 2 (September 2002)

Case ID No. 40300

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101284743

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

### 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> )	14	70%
	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%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 72%

#### >> Repeat Violator (Subtotal 3)

No

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 14 NOVs with same/similar violations to those in the current enforcement action and one dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 18-Aug-2010

Docket No. 2010-1426-PWS-E

PCW

Respondent Demontrond Buick Company

Policy Revision 2 (September 2002)

Case ID No. 40300

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101284743

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

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

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of March 2009 through April 2010 and failed to provide public notification of the failure to collect routine samples for the months of March 2009 through March 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform routine distribution coliform sampling may allow a significant amount of undetected contaminants that exceed levels protective of human health to be distributed to the public.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 14

425 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,500

Fourteen monthly 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 \$3,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$460

Violation Final Penalty Total \$6,477

This violation Final Assessed Penalty (adjusted for limits) \$6,477

## Economic Benefit Worksheet

**Respondent** Demontrond Buick Company  
**Case ID No.** 40300  
**Reg. Ent. Reference No.** RN101284743  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Jul-2010	15-Mar-2011	0.70	\$4	n/a	\$4

Notes for DELAYED costs

The delayed costs include the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the date of the record review. 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]	\$350	31-Mar-2009	30-Apr-2010	2.00	\$35	\$350	\$385
Other (as needed)	\$65	1-Jul-2009	1-Jul-2010	1.92	\$6	\$65	\$71

Notes for AVOIDED costs

The avoided costs includes the estimated amount to collect and submit monthly water samples for bacteriological analysis (\$25/sample) and provide public notice for the failure to collect the sample (\$5 per notice), calculated for the months in which no samples were collected and during the period a public notice was required.

Approx. Cost of Compliance

\$515

**TOTAL**

\$460

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600709935 Demontrond Buick Company Classification: AVERAGE Rating: 2.50  
Regulated Entity: RN101284743 DE MONTROND BUICK Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1011643

WATER LICENSING LICENSE 1011643

Location: 14101 NORTH FWY, NEAR HOUSTON, TX, 77090

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 17, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 17, 2005 to August 17, 2010

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

Name: Amanda Henry Phone: 713-767-3672

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |    |            |          |
|----|------------|----------|
| 1  | 02/14/2008 | (616624) |
| 2  | 07/02/2010 | (829488) |
| 3  | 07/12/2010 | (830101) |
| 4  | 07/12/2010 | (830110) |
| 5  | 07/12/2010 | (830122) |
| 6  | 07/12/2010 | (830127) |
| 7  | 07/12/2010 | (830218) |
| 8  | 07/12/2010 | (830234) |
| 9  | 07/12/2010 | (830263) |
| 10 | 07/12/2010 | (830275) |
| 11 | 07/12/2010 | (830283) |
| 12 | 07/12/2010 | (830293) |
| 13 | 07/12/2010 | (830305) |
| 14 | 07/12/2010 | (841119) |
| 15 | 07/12/2010 | (841130) |
| 16 | 08/06/2010 | (841416) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to provide a site glass on pressure tank.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
Description: Failure to provide pressure tank interior/exterior inspection report.

Date: 05/26/2009 (829488) CN600709935

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/15/2009 (830101) CN600709935

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 04/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/14/2009 (830110) CN600709935

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 08/04/2009 (830122) CN600709935

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 06/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 06/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 09/16/2009 (830127) CN600709935

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 07/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 07/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/02/2009 (830218) CN600709935

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 08/2009 - Failure to collect any routine

monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 11/05/2009 (830234) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 09/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/08/2009 (830263) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 10/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2010 (830275) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 11/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 11/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/26/2010 (830283) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 12/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/16/2010 (830293) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 01/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/29/2010 (830305) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 02/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/03/2010 (841119) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 03/2010 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: TCR PN Routine Monitoring Violation 03/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/10/2010 (841130) CN600709935  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)  
Description: TCR Routine Monitoring Violation 04/2010 - Failure to collect any routine monitoring sample(s).

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>DEMONTROND BUICK COMPANY</b>	<b>§</b>	
<b>RN101284743</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2010-1426-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 Demontrond Buick Company (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it 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 car dealership with a public water supply at 14101 North Freeway near Houston, Harris County, Texas (the “Facility”) that has approximately nine service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on June 1, 2010, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of March 2009 through April 2010 and did not provide public notification of the failure to collect routine samples for the months of March 2009 through March 2010.
3. The Respondent received notice of the violations on July 20, 2010.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Six Thousand Four Hundred Seventy-Seven Dollars (\$6,477) 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 Six Thousand Four Hundred Seventy-Seven Dollar (\$6, 477) 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 Six Thousand Four Hundred Seventy-Seven Dollars (\$6,477) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Demontrond Buick Company, Docket No. 2010-1426-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting.
  - b. Within 30 days after the effective date of this Agreed Order, develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification is provided to the customers of the Facility in the event that the Facility fails to perform the required coliform monitoring or other conditions that indicate the potability of water may have been compromised, as required by 30 TEX. ADMIN.CODE § 290.122.
  - c. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b.

The certification shall be notarized by a State of Texas Notary Public and should 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.”

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:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Ste. H  
Houston, Texas 77023-1452

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

John Siddin  
\_\_\_\_\_  
For the Executive Director

12/16/2010  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Demontrond Buick Company. I am authorized to agree to the attached Agreed Order on behalf of Demontrond Buick Company, 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, Demontrond Buick Company 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]  
\_\_\_\_\_  
Signature

10-25-10  
\_\_\_\_\_  
Date

George A. DeMonte, III  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Demontrond Buick Company

President  
\_\_\_\_\_  
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.