EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0564-PWS-E **TCEQ ID:** RN105871891 **CASE NO.:** 39433

RESPONDENT NAME: NextEra Energy Project Management, LLC

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Capricorn Ridge Wind Farm, 533 Bird Lane, Sterling County

TYPE OF OPERATION: Wind farm with a public water supply

SMALL BUSINESS: ___ Yes _X_ 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 13, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Charles S. Schultz, Secretary, NextEra Energy Project Management, LLC, 700 Universe Boulevard, Juno Beach, Florida 33408

Respondent's Attorney: Mr. Garson Knapp, Senior Attorney, NextEra Energy Resources, LLC, 700 Universe Boulevard, Juno Beach, Florida 33408

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** January 25, 2010 **Date of NOV/NOE Relating to this Case:** March 8, 2010 (NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failed to obtain Commission approval of the Facility prior to commencing construction [30 TEX. ADMIN. CODE § 290.39(c) and TEX. HEALTH & SAFETY CODE § 341.035(a)]. 2) Failed to provide written notification to the Commission prior to the startup of a new public water supply system [30 TEX. ADMIN. CODE § 290.39(m)]. 3) Failed to submit well completion data and obtain Commission approval of the well prior to utilizing the well as a drinking water source [30 TEX. ADMIN. CODE § 290.41(c)(3)(A)]. 4) Failed to provide a well casing that is a minimum of 18 inches above the finished floor or natural ground surface [30 TEX. ADMIN. CODE § 290.41(c)(3)(B)]. 5) Failed to completely seal the annular space between the casing and drill hole with cement under pressure [30 TEX. ADMIN. CODE § 290.41(c)(3)(C)]. 6) Failed to provide a concrete sealing block that extends a minimum of three feet from the well in all directions, is at least six inches thick, and is sloped to drain away at not less than 0.25 inches per foot [30 TEX. ADMIN. CODE § 290.41(c)(3)(J)].	**Total Assessed:** $6,272 **Total Deferred:** $1,254 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $5,018 **Compliance History Classification:** Person/CN – N/A Site/RN – N/A **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that, as of March 15, 2010, the Respondent ceased using the well at the Facility as a source of drinking water and for hand washing purposes and began providing bottled water to its employees and customers. **Ordering Provisions:** The Order will require the Respondent to: a. Continue providing bottled water to the Facility's employees and customers until such time that a well and water system have been approved by the Commission for use as a public water supply system and are supplying water to the Facility that meets the Commission's Drinking Water Standards as set forth in TEX. ADMIN. CODE ch. 290, Subchapter F; b. Within 180 days after the effective date of this Agreed Order, submit all necessary plans, specifications, and engineering reports to the Commission that will enable the Executive Director to approve the Facility for use as a public water supply system; and c. Within 195 days after the effective date of this Agreed Order, submit written certification and enclose detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision b. d. Within 300 days after the effective date of this Agreed Order: i. Obtain Commission approval of a well at the Facility for use as a public drinking water source; and ii. Obtain Commission approval of the Facility for use as a public water supply system. e. Within 315 days after the effective date of this Agreed Order, submit written certification and enclose

7) Failed to provide a well casing vent that is covered with a 16-mesh or finer corrosion-resistant screen, faces downwards, and is elevated to minimize the drawing in of contaminants [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)]. 8) Failed to provide a well sampling cock on the discharge pipe of each well pump prior to any treatment [30 TEX. ADMIN. CODE § 290.41(c)(3)(M)]. 9) Failed to provide a flow measuring device for the well to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)]. 10) Failed to disinfect the well for six hours upon well completion [30 TEX. ADMIN. CODE § 290.41(c)(3)(F)]. 11) Failed to collect samples for microbiological analysis after the six hours of disinfection are completed to ensure that raw water samples are free of coliform organisms [30 TEX. ADMIN. CODE § 290.41(c)(3)(F)(i)]. 12) Failed to protect the well unit and the pressure tank with an intruder-resistant fence with lockable gates or with a lockable building that is designed to exclude possible contamination or damage to the Facility by trespassers [30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e)]. 13) Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection [30 TEX. ADMIN. CODE § 290.42(b)(1)]. 14) Failed to compile and maintain a plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)]. 15) Failed to provide a pressure release device for the pressure tank [30 TEX. ADMIN. CODE § 290.43(d)(2)]. 16) Failed to provide a minimum pressure tank capacity of 220 gallons [30 TEX. ADMIN. CODE § 290.45(d)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. 17) Failed to have all production, treatment, and distribution facilities		detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision d; f. Within 350 days after the effective date of this Agreed Order, begin utilizing the Facility as a public water supply system and providing drinking water that meets the Commission's Drinking Water Standards under 30 TEX. ADMIN. CODE ch. 290, Subchapter F; and g. Within 365 days after the effective date of this Agreed Order, provide written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision f.

under the direct supervision of a water works operator who holds a Class "D" or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a)]. 18) Failed to conduct an annual inspection of the Facility's pressure tank [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)]. 19) Failed to prepare and maintain an accurate and up-to-date map of the distribution system that will allow valves and mains to be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)].		

Additional ID No(s).: PWS ID No. 2160002

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	15-Mar-2010				
PCW	29-Mar-2010	Screening	29-Mar-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	NextEra Energy Project Management, LLC		
Reg. Ent. Ref. No.	RN105871891		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39433	No. of Violations	11
Docket No.	2010-0564-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		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* $6,050

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement — *Subtotals 2, 3, & 7* $0

Notes: No adjustment is recommended due to compliance history.

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 $2,024
Approx. Cost of Compliance $25,011

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $6,050

OTHER FACTORS AS JUSTICE MAY REQUIRE 3.7% — *Adjustment* $222

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: An enhancement is recommended to recover the avoided costs of compliance for violation nos. 9 and 10.

Final Penalty Amount $6,272

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $6,272

DEFERRAL 20.0% Reduction — *Adjustment* -$1,254

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $5,018

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 0%

>> 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

No adjustment is recommended due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(c) and (m), 290.41(c)(3)(A), and Tex. Health & Safety Code § 341.035(a)

Violation Description Failed to obtain Commission approval of the Facility prior to commencing construction, failed to provide written notification to the Commission prior to the startup of a new public water supply system, and failed to submit well completion data and obtain Commission approval of the well prior to utilizing the well as a drinking water source.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirements were not met.

Adjustment $900

$100

Violation Events

Number of Violation Events 1 63 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
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

Estimated EB Amount $825

Statutory Limit Test

Violation Final Penalty Total $104

This violation Final Assessed Penalty (adjusted for limits) $104

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$10,000	25-Jan-2010	31-Mar-2011	1.18	$39	$785	$825
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 provide engineering plans and specifications for the Facility and to obtain approval of them by the Commission, calculated from the date of the investigation 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 $10,000

TOTAL $825

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(B), (C), (J), (K), (M), and (N)

Violation Description Failed to provide a well casing that is a minimum of 18 inches above the finished floor or natural ground surface, failed to completely seal the annular space between the casing and drill hole with cement under pressure, failed to provide a concrete sealing block that extends a minimum of three feet from the well in all directions, is at least six inches thick, and is sloped to drain away at not less than 0.25 inches per foot, failed to provide a well casing vent that is covered with a 16-mesh or finer corrosion-resistant screen, faces downwards, and is elevated to minimize the drawing in of contaminants, failed to provide a well sampling cock on the discharge pipe of each well pump prior to any treatment, and failed to provide a flow measuring device for the well to measure production yields and provide for the accumulation of water production data.

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 have the well and its appurtenances properly constructed and maintained could cause employees of the Facility to be exposed to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 3 | 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $750

Three monthly events are recommended, calculated from the date of the investigation, January 25, 2010, to the date of case screening, March 29, 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 $750

Economic Benefit (EB) for this violation

Estimated EB Amount $296

Statutory Limit Test

Violation Final Penalty Total $778

This violation Final Assessed Penalty (adjusted for limits) $778

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$5,000	25-Jan-2010	30-Nov-2010	0.85	$14	$282	$296
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 include the estimated amount to upgrade the well and its appurtenances to meet rule requirements and specifications, calculated from the date of the investigation 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 $5,000

TOTAL $296

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(F) and (F)(i)

Violation Description Failed to disinfect the well for six hours upon well completion and failed to collect samples for microbiological analysis after the six hours of disinfection are completed to ensure that raw water samples are free of coliform organisms.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to properly disinfect and sample the well could cause employees of the Facility to be exposed to significant amounts of contaminants, which would exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 | 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $250

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 $250

Economic Benefit (EB) for this violation

Estimated EB Amount $27

Statutory Limit Test

Violation Final Penalty Total $259

This violation Final Assessed Penalty (adjusted for limits) $259

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
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)	$500	25-Jan-2010	31-Oct-2010	0.76	$1	$25	$27
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 disinfect and sample the well water, calculated from the date of the investigation 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 $27

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 290.41(c)(3)(O) and 290.43(e)

Violation Description Failed to protect the well unit and the pressure tank with an intruder-resistant fence with lockable gates or with a lockable building that is designed to exclude possible contamination or damage to the Facility by trespassers.

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 protect the well and pressure tank could leave the Facility vulnerable to damage from trespassers, causing employees of the Facility to be exposed to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 6 — 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,500

Six monthly events are recommended (three events per structure), calculated from the date of the investigation, January 25, 2010, to the date of case screening, March 29, 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 $1,500

Economic Benefit (EB) for this violation

Estimated EB Amount $119

Statutory Limit Test

Violation Final Penalty Total $1,555

This violation Final Assessed Penalty (adjusted for limits) $1,555

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$2,000	25-Jan-2010	30-Nov-2010	0.85	$6	$113	$119
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 construct intruder-resistant fences around the well and pressure tank, calculated from the date of the investigation to the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 $2,000

TOTAL $119

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.42(b)(1)

Violation Description Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection.

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: Without disinfection facilities, drinking water supplied to the employees of the Facility may not be free of contaminants, resulting in the exposure of the employees to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 3 | 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $750

Three monthly events are recommended, calculated from the date of the investigation, January 25, 2010, to the date of case screening, March 29, 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 $750

Economic Benefit (EB) for this violation

Estimated EB Amount $107

Statutory Limit Test

Violation Final Penalty Total $778

This violation Final Assessed Penalty (adjusted for limits) $778

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$2,000	25-Jan-2010	31-Oct-2010	0.76	$5	$102	$107
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 purchase and install disinfection facilities, calculated from the date of the investigation 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 $2,000

TOTAL $107

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)

Violation Description Failed to compile and maintain a plant operations manual for operator review and reference.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events 1 | 63 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

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $104

This violation Final Assessed Penalty (adjusted for limits) $104

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 6

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)	$100	25-Jan-2010	31-Oct-2010	0.76	$0	$5	$5
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 prepare and begin maintaining a plant operations manual for the Facility, calculated from the date of the investigation 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 $100

TOTAL $5

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.43(d)(2)

Violation Description Failed to provide a pressure release device for the pressure tank.

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 have a pressure release device could compromise the tank's integrity, resulting in employees of the Facility being exposed to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

3 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $750

Three monthly events are recommended, calculated from the date of the investigation, January 25, 2010, to the date of case screening, March 29, 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 $750

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $778

This violation Final Assessed Penalty (adjusted for limits) $778

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction	$100	25-Jan-2010	31-Oct-2010	0.76	$0	$5	$5
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 install a pressure release device on the pressure tank, calculated from the date of the investigation 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 $100

TOTAL $5

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.45(d)(2)(A)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a minimum pressure tank capacity of 220 gallons. Specifically, on the date of the investigation, the pressure tank was found to have a total capacity of 83.5 gallons, which is a 62% deficiency.

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 have sufficient pressure tank capacity could result in water outages or low pressure which would result in exposure of the employees of the Facility to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

3 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $750

Three monthly events are recommended, calculated from the date of the investigation, January 25, 2010, to the date of case screening, March 29, 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 $750

Economic Benefit (EB) for this violation

Estimated EB Amount $412

Statutory Limit Test

Violation Final Penalty Total $778

This violation Final Assessed Penalty (adjusted for limits) $778

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$5,000	25-Jan-2010	31-Mar-2011	1.18	$20	$393	$412
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: The delayed cost includes the estimated amount to increase the pressure tank capacity to a minimum of 220 total gallons, calculated from the date of the investigation 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 $5,000

TOTAL $412

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(4)(A) and Tex. Health & Safety Code § 341.033(a)

Violation Description Failed to have all production, treatment, and distribution facilities under the direct supervision of a water works operator who holds a Class "D" or higher license.

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 have a licensed operator could result in improper operation of the Facility, causing employees of the Facility to be exposed to significant amounts of contaminants, which would exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 3 — 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $750

Three monthly events are recommended, calculated from the date of the investigation, January 25, 2010, to the date of case screening, March 29, 2009.

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 $750

Economic Benefit (EB) for this violation

Estimated EB Amount $117

Statutory Limit Test

Violation Final Penalty Total $778

This violation Final Assessed Penalty (adjusted for limits) $778

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 9

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]	$111	25-Jan-2010	29-Mar-2010	1.09	$6	$111	$117
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The delayed cost includes the actual fee for a Class "D" license, calculated from the date of the investigation to the date of case screening.						

Approx. Cost of Compliance $111

TOTAL $117

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(B)

Violation Description Failed to conduct an annual inspection of the Facility's pressure tank.

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 inspect the pressure tank could result in nondetection of a tank defect, causing employees of the Facility to be exposed to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $250

One annual 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 $250

Economic Benefit (EB) for this violation

Estimated EB Amount $105

Statutory Limit Test

Violation Final Penalty Total $259

This violation Final Assessed Penalty (adjusted for limits) $259

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 10

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	$100	25-Jan-2009	25-Jan-2010	1.00	$5	$100	$105
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	The avoided cost includes the estimated amount to perform an annual pressure tank inspection, calculated for the one year prior to the investigation.						

Approx. Cost of Compliance $100

TOTAL $105

Screening Date 29-Mar-2010 **Docket No.** 2010-0564-PWS-E **PCW**

Respondent NextEra Energy Project Management, LLC *Policy Revision 2 (September 2002)*

Case ID No. 39433 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105871891

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 11

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

Violation Description Failed to prepare and maintain an accurate and up-to-date map of the distribution system that will allow valves and mains to be easily located during emergencies.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events 1 63 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

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $104

This violation Final Assessed Penalty (adjusted for limits) $104

Economic Benefit Worksheet

Respondent NextEra Energy Project Management, LLC
Case ID No. 39433
Reg. Ent. Reference No. RN105871891
Media Public Water Supply
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$100	25-Jan-2010	30-Nov-2010	0.85	$0	$6	$6
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 prepare a map of the distribution system, calculated from the date of the investigation 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 $100

TOTAL $6

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603635277	NextEra Energy Project Management, LLC	Classification:	Rating:
Regulated Entity:	RN105871891	CAPRICORN RIDGE WIND FARM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2160002	

Location: 533 BIRD LN, STERLING COUNTY, TX

TCEQ Region: REGION 08 - SAN ANGELO

Date Compliance History Prepared: March 30, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 30, 2005 to March 30, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rebecca Clausewitz Phone: (210) 403-4012

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

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 03/08/2010 (793424)

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

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	§	
NEXTERA ENERGY PROJECT	§	**TEXAS COMMISSION ON**
MANAGEMENT, LLC	§	
RN105871891	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-0564-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NextEra Energy Project Management, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Garson Knapp of NextEra Energy Resources, LLC, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wind farm with a public water supply at 533 Bird Lane, Sterling County, Texas (the "Facility") that has three service connections and serves at least 25 people per day for at least 60 days per year.

2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 13, 2010.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of Six Thousand Two Hundred Seventy-Two Dollars ($6,272) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Eighteen Dollars ($5,018) of the administrative penalty and One Thousand Two Hundred Fifty-Four Dollars ($1,254) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

8. The Executive Director recognizes that, as of March 15, 2010, the Respondent ceased using the well at the Facility as a source of drinking water and for hand washing purposes and began providing bottled water to its employees and customers.

9. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. 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.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to obtain Commission approval of the Facility prior to commencing construction, in violation of 30 TEX. ADMIN. CODE § 290.39(c) and TEX. HEALTH & SAFETY CODE § 341.035(a), as documented during an investigation conducted on January 25, 2010.

2. Failed to provide written notification to the Commission prior to the startup of a new public water supply system, in violation of 30 TEX. ADMIN. CODE § 290.39(m), as documented during an investigation conducted on January 25, 2010.

3. Failed to submit well completion data and obtain Commission approval of the well prior to utilizing the well as a drinking water source, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(A), as documented during an investigation conducted on January 25, 2010.

4. Failed to provide a well casing that is a minimum of 18 inches above the finished floor or natural ground surface, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(B), as documented during an investigation conducted on January 25, 2010.

5. Failed to completely seal the annular space between the casing and drill hole with cement under pressure, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(C), as documented during an investigation conducted on January 25, 2010.

6. Failed to provide a concrete sealing block that extends a minimum of three feet from the well in all directions, is at least six inches thick, and is sloped to drain away at not less than 0.25 inches per foot, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(J), as documented during an investigation conducted on January 25, 2010.

7. Failed to provide a well casing vent that is covered with a 16-mesh or finer corrosion-resistant screen, faces downwards, and is elevated to minimize the drawing in of contaminants, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on January 25, 2010.

8. Failed to provide a well sampling cock on the discharge pipe of each well pump prior to any treatment, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(M), as documented during an investigation conducted on January 25, 2010.

9. Failed to provide a flow measuring device for the well to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on January 25, 2010.

10. Failed to disinfect the well for six hours upon well completion, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(F), as documented during an investigation conducted on January 25, 2010.

11. Failed to collect samples for microbiological analysis after the six hours of disinfection are completed to ensure that raw water samples are free of coliform organisms, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(F)(i), as documented during an investigation conducted on January 25, 2010.

12. Failed to protect the well unit and the pressure tank with an intruder-resistant fence with lockable gates or with a lockable building that is designed to exclude possible contamination or damage to the Facility by trespassers, in violation of 30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e), as documented during an investigation conducted on January 25, 2010.

13. Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(1), as documented during an investigation conducted on January 25, 2010.

14. Failed to compile and maintain a plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l), as documented during an investigation conducted on January 25, 2010.

15. Failed to provide a pressure release device for the pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(2), as documented during an investigation conducted on January 25, 2010.

16. Failed to provide a minimum pressure tank capacity of 220 gallons, in violation of 30 TEX. ADMIN. CODE § 290.45(d)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on January 25, 2010.

17. Failed to have all production, treatment, and distribution facilities under the direct supervision of a water works operator who holds a Class "D" or higher license, in violation of 30 TEX. ADMIN.

CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a), as documented during an investigation conducted on January 25, 2010.

18. Failed to conduct an annual inspection of the Facility's pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B), as documented during an investigation conducted on January 25, 2010.

19. Failed to prepare and maintain an accurate and up-to-date map of the distribution system that will allow valves and mains to be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2), as documented during an investigation conducted on January 25, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: NextEra Energy Project Management, LLC, Docket No. 2010-0564-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. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Continue providing bottled water to the Facility's employees and customers until such time that a well and water system have been approved by the Commission for use as a public water supply system and are supplying water to the Facility that meets the Commission's Drinking Water Standards as set forth in TEX. ADMIN. CODE ch. 290, Subchapter F, in accordance with 30 TEX. ADMIN. CODE §§ 290.39 and 290.41.

   b. Within 180 days after the effective date of this Agreed Order, submit all necessary plans, specifications, and engineering reports to the Commission that will enable the Executive Director to approve the Facility for use as a public water supply system, in accordance with 30 TEX. ADMIN. CODE § 290.39. All submissions shall be prepared by a licensed professional engineer and shall be submitted to:

Utilities Technical Review Team
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

c. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.g below, and enclose detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.b.

d. Within 300 days after the effective date of this Agreed Order:

ii. Obtain Commission approval of a well at the Facility for use as a public drinking water source, in accordance with 30 TEX. ADMIN. CODE § 290.41; and

iii. Obtain Commission approval of the Facility for use as a public water supply system, in accordance with 30 TEX. ADMIN. CODE § 290.39.

e. Within 315 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.g below, and enclose detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.d.

f. Within 350 days after the effective date of this Agreed Order, begin utilizing the Facility as a public water supply system and providing drinking water that meets the Commission's Drinking Water Standards under 30 TEX. ADMIN. CODE ch. 290, Subchapter F.

g. Within 365 days after the effective date of this Agreed Order, provide written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.f. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

Water Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7013

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. 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.

6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the 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

_____ 2/10/2011
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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, 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.

_____ January 27, 2011
Signature Date

Charles S. Schultz Secretary
Name (Printed or typed) Title
Authorized Representative of
NextEra Energy Project Management, LLC

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