

Executive Summary – Enforcement Matter – Case No. 40129
City of Scottsville
RN101227619
Docket No. 2010-1254-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
Farm-to-Market Road 2199 off Highway 80, east of Marshall, Harrison County

Type of Operation:
Public water supply system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$41.49
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: April 29, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$4,372

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$4,372

Compliance History Classifications:

Person/CN – Average

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: July 1, 2010
Date(s) of NOV(s): See Compliance History – 11 NOVs
Date(s) of NOE(s): July 28, 2010

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to comply with the Maximum Contaminant Level (“MCL”) for total coliform and failed to provide public notification of the MCL exceedance [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
3. Failed to collect, within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample, three repeat distribution coliform samples for each routine distribution coliform-positive sample, and failed to provide public notification of the failure to collect repeat distribution samples [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(i) and 290.122(c)(2)(A)].
4. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, and failed to provide public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 10 days:
 - a. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility; and
 - b. Begin complying with applicable coliform monitoring requirements by collecting routine distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting.
2. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: February 28, 2011
Date(s) Green Card(s) Signed: March 2, 2011
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Executive Summary – Enforcement Matter – Case No. 40129
City of Scottsville
RN101227619
Docket No. 2010-1254-PWS-E

Contact Information

TCEQ Attorneys: Stephanie J. Frazee, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Andrea Linson-Mgbeoduru, Water Enforcement Section,
(512) 239-1482

Respondent: The Honorable Walter Johnson, Mayor, City of Scottsville, P.O. Box 453, Scottsville,
Texas 75688

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	2-Aug-2010	Screening	2-Aug-2010	EPA Due	28-Feb-2009
	PCW	21-Dec-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Scottsville
Reg. Ent. Ref. No.	RN101227619
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40129	No. of Violations	4
Docket No.	2010-1254-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeoduru
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	59.0% Enhancement	Subtotals 2, 3, & 7	\$1,622
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Notes: Enhancement for 11 Notices of Violation ("NOV") that contain the same/similar violations as those in the current enforcement action and two dissimilar NOV's.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,066
 Approx. Cost of Compliance: \$1,075
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,372
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$4,372

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,372
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$4,372
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Screening Date 2-Aug-2010

Docket No. 2010-1254-PWS-E

PCW

Respondent City of Scottsville

Policy Revision 2 (September 2002)

Case ID No. 40129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101227619

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	11	55%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 59%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 11 Notices of Violation ("NOV") that contain the same/similar violations as those in the current enforcement action and two dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 59%

Screening Date 2-Aug-2010 **Docket No.** 2010-1254-PWS-E **PCW**
Respondent City of Scottsville *Policy Revision 2 (September 2002)*
Case ID No. 40129 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101227619
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

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

Violation Description Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample for the following months: February, April, May, July, August, September and October 2008; and February 2010.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Failure to properly sample may expose the public to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Eight monthly events are recommended, based on the months sampling was not conducted.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Scottsville
Case ID No. 40129
Req. Ent. Reference No. RN101227619
Media Violation No. Public Water Supply
 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)	\$100	1-Jul-2010	31-Aug-2011	1.17	\$0	\$8	\$8
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 implement training on procedures necessary to ensure that all public notifications are provided in a timely manner to the customers of the Facility, calculated from the date of the file review 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]	\$225	29-Feb-2008	28-Feb-2010	2.92	\$33	\$225	\$258
Other (as needed)	\$200	31-May-2008	31-May-2010	2.92	\$29	\$200	\$229

Notes for AVOIDED costs
 The avoided costs include the estimated amount necessary (\$25 x 9 samples + \$25 x 8 public notices) to conduct routine coliform sampling and provide public notification of the failure to collect the sample, calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance \$525

TOTAL \$495

Screening Date 2-Aug-2010

Docket No. 2010-1254-PWS-E

PCW

Respondent City of Scottsville

Policy Revision 2 (September 2002)

Case ID No. 40129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101227619

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform and failed to provide public notification of the MCL exceedence for the month of March 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes As a result of the exceedence, persons served by the Facility have been exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended, based on the month of the MCL exceedence.

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

Statutory Limit Test

Estimated EB Amount \$235

Violation Final Penalty Total \$398

This violation Final Assessed Penalty (adjusted for limits) \$398

Economic Benefit Worksheet

Respondent City of Scottsville
Case ID No. 40129
Req. Ent. Reference No. RN101227619
Media Violation No. Public Water Supply
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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]	\$200	1-Mar-2010	31-Mar-2010	1.00	\$10	\$200	\$210
Other (as needed)	\$25	1-Apr-2010	30-Apr-2010	0.00	\$0	\$25	\$25

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to provide additional oversight necessary to prevent or avoid the exceedence, calculated for the month the exceedence occurred and the other avoided cost includes the amount necessary to provide public notification, calculated for the time frame the notice should have been provided.

Approx. Cost of Compliance \$225

TOTAL \$235

Screening Date 2-Aug-2010

Docket No. 2010-1254-PWS-E

PCW

Respondent City of Scottsville

Policy Revision 2 (September 2002)

Case ID No. 40129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101227619

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(3)(A)(i) and 290.122(c)(2)(A)

Violation Description

Failed to collect, within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample, three repeat distribution coliform samples for each routine distribution coliform-positive sample; and failed to provide public notification of the failure to collect repeat distribution samples during the month of March 2010. Specifically, at the time of the record review, it was documented that each of the Facility's two routine distribution samples for coliform analysis exceeded the MCL for total coliform bacteria. However, the Facility did not collect the required six repeat distribution coliform samples.

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 sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended, based on the month the repeat samples were not collected.

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

Statutory Limit Test

Estimated EB Amount \$184

Violation Final Penalty Total \$398

This violation Final Assessed Penalty (adjusted for limits) \$398

Economic Benefit Worksheet

Respondent City of Scottsville
Case ID No. 40129
Req. Ent. Reference No. RN101227619
Media Violation No. Public Water Supply
 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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]	\$150	1-Mar-2010	31-Mar-2010	1.00	\$8	\$150	\$158
Other (as needed)	\$25	1-Apr-2010	30-Jun-2010	1.16	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 x 6 samples + \$25 x 1 public notice) to collect six repeat distribution coliform samples and provide public notification of the failure to collect the repeat distribution samples. The date calculated for public notice is the time period that the notice should have been issued.

Approx. Cost of Compliance \$175

TOTAL \$184

Screening Date 2-Aug-2010

Docket No. 2010-1254-PWS-E

PCW

Respondent City of Scottsville

Policy Revision 2 (September 2002)

Case ID No. 40129

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101227619

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)

Violation Description

Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result occurred and failed to provide public notification of the failure to sample for the month of April 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 properly sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$250

One monthly event is recommended, based on the month sampling was not conducted.

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

Statutory Limit Test

Estimated EB Amount \$151

Violation Final Penalty Total \$398

This violation Final Assessed Penalty (adjusted for limits) \$398

Economic Benefit Worksheet

Respondent City of Scottsville
Case ID No. 40129
Req. Ent. Reference No. RN101227619
Media Violation No. Public Water Supply
 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Apr-2010	30-Apr-2010	0.00	\$0	\$125	\$125
Other (as needed)	\$25	1-May-2010	31-Jul-2010	1.17	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 x 5 samples + \$25 x 1 public notice) to conduct routine coliform sampling and provide public notification of the failure to sample. The time period to collect the distribution sample is the month the samples were due. The date calculated for public notification is the time period that the notification should have been issued.

Approx. Cost of Compliance \$150

TOTAL \$151

Compliance History Report

Customer/Respondent/Owner-Operator: CN600667943 City of Scottsville Classification: AVERAGE Rating: 6.00
Regulated Entity: RN101227619 SCOTTSVILLE WATER SYSTEM Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1020006
WATER LICENSING LICENSE 1020006
Location: LOCATED ON FARM-TO-MARKET ROAD 2199, OFF HIGHWAY 80, EAST OF MARSHALL,
HARRISON COUNTY, TEXAS
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: August 02, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 02, 2005 to August 02, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
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 | 08/16/2007 | (566033) |
| 2 | 06/28/2010 | (801869) |
| 3 | 07/13/2010 | (841117) |
| 4 | 07/23/2010 | (841271) |
| 5 | 07/23/2010 | (841597) |
| 6 | 07/23/2010 | (841599) |
| 7 | 07/23/2010 | (841623) |
| 8 | 07/23/2010 | (841625) |
| 9 | 07/23/2010 | (841629) |
| 10 | 07/23/2010 | (841631) |
| 11 | 07/23/2010 | (841639) |
| 12 | 07/23/2010 | (841642) |
| 13 | 07/23/2010 | (841645) |
| 14 | 07/30/2010 | (843073) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 08/23/2007 | (566033) | CN600667943 |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(f)(1) | | |
| Description: | Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding with the City of Marshall. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(s)(1) | | |
| Description: | Failure to calibrate the well meters at least every three years. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | | |
| Description: | Failure to provide sanitary control easements for Well 1. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 288, SubChapter B 288.20 | | |
| Description: | Failure to adopt a drought contingency plan. | | |
| Date: | 04/16/2008 | (841623) | CN600667943 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c) | | |
| Description: | TCR Routine Monitoring Violation 02/2008 - 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 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
Date: 05/22/2008 (841625) CN600667943

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 04/2008 - Failure to collect all 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 04/2008 - Failure to post public notice for not collecting all routine monitoring sample(s).
Date: 06/27/2008 (841629) CN600667943

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect all 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 05/2008 - Failure to post public notice for not collecting all routine monitoring sample(s).
Date: 09/03/2008 (841631) CN600667943

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect all 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 07/2008 - Failure to post public notice for not collecting all routine monitoring sample(s).
Date: 10/10/2008 (841639) CN600667943

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect all 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 08/2008 - Failure to post public notice for not collecting all routine monitoring sample(s).
Date: 11/19/2008 (841642) CN600667943

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 09/2008- Failure to collect all 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 09/2008 - Failure to post public notice for not collecting all routine monitoring sample(s).
Date: 12/09/2008 (841645) CN600667943

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect all 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 10/2008 - Failure to post public notice for not collecting all routine monitoring sample(s).
Date: 03/29/2010 (841117) CN600667943

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: 03/30/2010 (841597) CN600667943

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 03/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: TCR PN MCL Violation 03/2010 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

Date: 05/03/2010 (841271) CN600667943

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)

Description: TCR Repeat Monitoring Violation 03/2010 - Failure to collect all repeats following a coliform found result.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: TCR PN Repeat Monitoring Violation 03/2010 - Failure to post a public notice for not collecting any repeats following a coliform found result.

Date: 06/10/2010 (841599) CN600667943

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)

Description: TCR IC Routine Monitoring Violation 04/2010 - Failure to collect all 5 increase distribution samples following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: TCR PN Increase Monitoring Violation 04/2010 - Failure to post public notice for not collecting all 5 increase distribution samples following a coliform found month.

Date: 06/30/2010 (801869) CN600667943

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)

Description: Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding with the City of Marshall.

Self Report? NO Classification: Minor

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

Description: Failure to calibrate the well meters at least every three years.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide sanitary control easements for Well 1.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to adopt a drought contingency plan.

Self Report? NO Classification: Minor

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

Description: Failure to maintain the public water system's operating records organized, and copies kept on file or stored electronically.

Self Report? NO Classification: Minor

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

Description: Failure to inspect the ground storage tanks and pressure tanks annually.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SCOTTSVILLE;
RN101227619**

**§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1254-PWS-E

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

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located on Farm-to-Market Road 2199 off Highway 80, east of Marshall in Harrison County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 349 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on July 1, 2010, a TCEQ Public Water System Program investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample for the following months: February, April, May, July, August, September, and October 2008, and February 2010;
 - b. Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform and failed to provide public notification of the MCL exceedance for the month of March 2010;
 - c. Failed to collect, within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample, three repeat distribution coliform samples for each routine distribution coliform-positive sample, and failed to provide public notification of the failure to collect repeat distribution samples during the month of March 2010. Specifically, each of the Facility's two routine distribution samples for coliform analysis exceeded the MCL for total coliform bacteria. However, the Facility did not collect the required six repeat distribution coliform samples; and

- d. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, and failed to provide public notification of the failure to sample for the month of April 2010.
3. Respondent received notice of the violations on or about August 2, 2010.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of City of Scottsville," (the "EDPRP") in the TCEQ Chief Clerk's office on February 28, 2011.
5. By letter dated February 28, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on March 2, 2011, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample for the following months: February, April, May, July, August, September, and October 2008, and February 2010, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to comply with the Maximum Contaminant Level ("MCL") for total coliform and failed to provide public notification of the MCL exceedance for the month of March 2010, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect, within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample, three repeat distribution coliform samples for each routine distribution coliform-positive sample, and failed to provide public notification of the failure to collect repeat distribution samples during the month of March 2010, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(i) and 290.122(c)(2)(A).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, and failed to provide public notification of the failure to sample for the month

of April 2010, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).

6. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of four thousand three hundred seventy-two dollars (\$4,372.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of four thousand three hundred seventy-two dollars (\$4,372.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Scottsville; Docket No. 2010-1254-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Order, Respondent shall:
 - i. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine 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 months of compliance monitoring and reporting.
 - b. Within 195 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Water Section Manager
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Drive
Tyler, Texas 75701-3734

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS

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§
§

COUNTY OF TRAVIS

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of City of Scottsville" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 28, 2011.

The EDPRP was mailed to Respondent's last known address on February 28, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 2, 2011, as evidenced by the signature on the card.

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



Stephanie J. Frazee, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 13th day of April, A.D. 2011.



Notary Signature

